

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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**CHAPTER 278**

S.P. 529 - L.D. 1424

AN ACT to Prevent the Hospital Cost Containment Law from Substituting for the Collective Bargaining Process.

Be it enacted by the People of the State of Maine as follows:

22 MRSA §381, sub-§2, ¶C is enacted to read:

C. It is further the intent of the Legislature that nothing in this chapter may be construed to prescribe the amounts hospitals may pay for particular goods and services, including professional services. Similarly, except as required by the specific provisions of this chapter and rules promulgated under this chapter, the decisions made by hospitals regarding the amounts to be expended for particular goods and services shall have no effect on the gross patient service revenue limits established by the commission.

Effective September 19, 1985.

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**CHAPTER 279**

S.P. 559 - L.D. 1488

AN ACT to Amend the Maine Insurance Guaranty Association Act.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA §4433., sub-§2, as enacted by PL 1969, c. 561, is amended to read:

2. Exceptions. Except, that this subchapter shall not apply as to:

- A. Contracts of reinsurance;
- B. Mortgage guaranty insurance; and
- C. Credit insurance, as defined in section 707, subsection 1, paragraph 1-; and

D. Insurance contracts procured as surplus lines coverage pursuant to chapter 19.

Sec. 2. 24-A MRSA §4435, sub-§7, as enacted by PL 1969, c. 561, is amended to read:

7. Net direct written premiums. "Net direct written premiums" means direct gross premiums written on insurance policies to which this subchapter applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers or premiums written through the United States Government Flood Insurance Program.

Sec. 3. 24-A MRSA §4437, first ¶, as amended by PL 1973, c. 625, §160, is further amended to read:

The board of directors of the association shall consist of not less than 7 persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the ~~commissioner~~ superintendent. Vacancies on the board shall be filled for the remaining period of the term ~~in the same manner as initial appointments by a majority vote of the remaining board members, subject to the approval of the superintendent.~~ If no members are selected within 60 days after May 9, 1970, the superintendent may appoint the initial members of the board of directors.

Sec. 4. 24-A MRSA §4438, sub-§1, ¶A, as amended by PL 1981, c. 17, is further amended to read:

A. Be obligated to the extent of covered claims existing prior to the determination of the insurer's insolvency, or arising after such determination but prior to the first to occur of the following events:

- (1) Expiration of 30 days after the date of such determination of insolvency;
- (2) Expiration of the policy; or
- (3) Replacement or cancellation of the policy at the instance of the insured;

Except as to covered claims arising under ~~workmen's~~ workers' compensation policies, the obligation of the association shall not extend to any portion of a covered claim which exceeds the lesser of the obligation of the insurer, now in-

solvent, under the policy from which the claim arises, or ~~\$150,000~~ \$300,000. The association shall pay in full covered claims arising under ~~workmen's~~ workers' compensation policies;

Sec. 5. 24-A MRSA §4438, sub-§1, ¶D, as enacted by PL 1969, c.561, is amended to read:

D. Investigate claims brought against the association and adjust, compromise, settle and pay covered claims to the extent of the association's obligation and deny all other claims. The association shall pay covered claims in any reasonable order, including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

Sec. 6. 24-A MRSA §4440, sub-§§1 and 4, as enacted by PL 1969, c. 561, are amended to read:

1. Proportion. The assessments of each member insurer provided for under section 4438, shall be in the proportion that the net direct written premiums of the member insurer for the ~~preceeding~~ preceding calendar year preceding the assessment on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the ~~preceeding same~~ preceding same calendar year on the kinds of insurance in the account.

4. Exemptions. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. It is a condition of any deferral that during the period of deferment no dividends may be paid by the member insurer to its shareholders or policyholders. A deferred assessment is paid when payment will not reduce capital or surplus below required levels, and the association shall then refund to its other member insurers an amount equal to the deferred assessment in the proportions corresponding to the increases in their assessments by virtue of that deferment.

Sec. 7. 24-A MRSA §4444, sub-§6, as amended by PL 1973, c. 585, §12, is further amended to read:

6. Causes. The At the request of the superintendent the board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the association, and submit such report to the superintendent.

Sec. 8. 24-A MRSA §4449, as enacted by PL 1969, c. 561, is amended to read:

§4449. Stay of proceedings; reopening of default judgments

All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this State shall be stayed for 60 days from the date the insolvency is determined, and may be stayed by the Superior Court for additional time solely as is deemed necessary to permit proper defense by the association of all pending causes of action. The association shall provide to the superintendent a copy of any such request for stay and supporting documents filed with the court. As to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the association either on its own behalf or on behalf of such insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend against such claim on the merits.

Sec. 9. 24-A MRSA §4451 is enacted to read:

§4451. Advertising restrictions

Any person who makes, publishes or circulates, or causes to be made, published or circulated, any statement which uses the existence of the association for the purpose of sales, solicitation or inducement to purchase any form of insurance shall be deemed to have committed an unfair trade practice which is subject to a cease and desist order pursuant to section 2165 and to any applicable penalty provided by this Title.