

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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PUBLIC LAWS

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agent. Any insurance broker or agent who has established one or more places of business for the purpose of transacting insurance shall assign at least one separate broker or agent to each location, including the location of its headquarters, and shall give written notice to the Superintendent of Insurance containing the location of each office and the agent or broker responsible for each office.

Effective September 29, 1987.

CHAPTER 293

H.P. 1246 — L.D. 1698

AN ACT Requiring that Certain Health Insurance Plans Provide for Cardiac Rehabilitation Expenses.

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

Sec. 1. 24 MRSA §2333-A is enacted to read:

§2333-A. Cardiac rehabilitation coverage

1. Requirement. Every nonprofit hospital or medical service corporation which issues health care contracts providing coverage for hospital or medical care to residents of this State shall make available to groups of 20 or more persons, at the option of the contract holder, benefits as required by this section to any subscriber or other person covered under those contracts for the expense of cardiac rehabilitation.

2. Cardiac rehabilitation. "Cardiac rehabilitation" means multidisciplinary, medically necessary treatment of persons with documented cardiovascular disease, which shall be provided in either a hospital or other setting. Such treatment shall include outpatient treatment which is initiated within 26 weeks after the diagnosis of that disease and physician-recommended continuance of Phase II rehabilitation services for up to 36 outpatient sessions in a hospital.

3. Limitations. Benefits required to be made available by this section may be made subject to any reasonable limitation, maximum benefit, coinsurance, deductible or exclusion provisions applicable to overall benefits under the contract.

4. Application. The requirements of this section shall apply to all contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1988. For purposes of this section only, all contracts shall be deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 2. 24-A MRSA §2845 is enacted to read:

§2845. Cardiac rehabilitation coverage

1. Requirement. Every insurer which issues group health care contracts providing coverage for hospital care to residents of this State shall make available to groups of 20 or more persons, at the option of the policyholder, benefits as required by this section to any certificate holder or other person covered under those contracts for the expense of cardiac rehabilitation.

2. Cardiac rehabilitation. "Cardiac rehabilitation" means multidisciplinary, medically necessary treatment of persons with documented cardiovascular disease, which shall be provided in either a hospital or other setting. That treatment shall include outpatient treatment which is initiated within 26 weeks after the diagnosis of that disease and physician-recommended continuance of Phase II rehabilitation services for up to 36 sessions in a hospital or community-based setting and up to 36 Phase III sessions in a community-based setting.

3. Limitations. Benefits required to be made available pursuant to this section may be made subject to any reasonable limitation, maximum benefit, coinsurance, deductible or exclusion provisions applicable to overall benefits under the policy or certificate.

4. Application. The requirements of this section shall apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1988. For purposes of this section only, all group policies shall be deemed to be renewed no later than the next yearly anniversary of the contract date.

Effective September 29, 1987.

CHAPTER 294

H.P. 1247 — L.D. 1701

AN ACT to Provide Cable Television Access to Apartment Dwellings.

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

14 MRSA c. 710-B is enacted to read:

CHAPTER 710-B

CABLE TELEVISION INSTALLATION

§6041. Installation; consent of building owner required

1. Cable television installation. A tenant in a multiple dwelling unit may subscribe to cable television service, subject to the following provisions.

A. A cable operator who affixes or causes to be affixed cable television facilities to the dwelling of a

tenant shall do so at no cost to the owner of the dwelling; shall indemnify the owner immediately for damages, if any, arising from the installation or the continued operation of the installation, or both; and shall not interfere with the safety, functioning, appearance or use of the dwelling, nor interfere with the rules of the owner dealing with the day-to-day operations of the property, including the owner's reasonable access rules for soliciting business.

Nothing in this section may prohibit an owner from contracting with the cable operator for work in addition to standard installation.

B. No cable operator may enter into any agreement with persons owning, leasing, controlling or managing a building served by a cable television system or perform any act which would directly or indirectly diminish or interfere with the rights of any tenant to use a master or individual antenna system.

C. A cable operator must have the owner's written consent to affix cable television system facilities to a tenant's dwelling. The owner may refuse the installation of cable television facilities for good cause only. Good cause includes, but is not limited to:

- (1) Failure to honor previous written contractual commitments; or
- (2) Failure to repair damages caused by a cable operator during prior installation.

D. In the absence of written consent, the consent required by paragraph C shall be considered to have been granted to a cable operator upon his delivery to the owner, in person or by certified mail, return receipt requested by the addressee, the following:

- (1) A copy of this section;
- (2) A signed statement that the cable operator will be bound by the terms of this section to the owner of the property upon which the cable television system facilities are to be affixed; and
- (3) Notice to the owner in clear, understandable language that describes the owner's rights and responsibilities.

E. If consent is obtained under paragraph D, the cable operator shall present and the owner and operator shall review, prior to any installation, plans and specifications for the installation, unless waived in writing by the owner. The operator shall abide by reasonable installation requests by the owner. In any legal action brought pursuant to this paragraph, the burden of proof relative to the reasonable nature of the owner's request shall be on the cable operator. The cable operator shall inspect the premises with the owner after installations to ensure conformance with the plans and specifications. The cable operator shall be respon-

sible for maintenance of any equipment installed on the owner's premises and shall be entitled to reasonable access for that maintenance. Unless waived in writing by the owner, the cable operator, prior to any installation, shall provide the owner with a certificate of insurance covering all the employees or agents of the installer or cable operator, as well as all equipment of the cable operator, and must indemnify the owner from all liability arising from the operator's installation, maintenance and operation of cable television facilities.

F. If consent is obtained under paragraph D and the owner of any such real estate intends to require the payment of any sum in excess of a nominal amount defined in this subsection as \$1, in exchange for permitting the installation of cable television system facilities to the dwelling of the tenant, the owner shall notify the cable operator by certified mail, return receipt requested, within 20 days of the date on which the owner is notified that the cable operator intends to extend cable television system facilities to the dwelling of a tenant of the owner's real estate. Without this notice, it will be conclusively presumed that the owner will not require payment in excess of the nominal amount mentioned in this section specified for such connection. If the owner gives notice, the owner, within 30 days after giving the notice, shall advise the cable operator in writing of the amount the owner claims as compensation for affixing cable television system facilities to his real estate. If, within 30 days after receipt of the owner's claim for compensation, the cable operator has not agreed to accept the owner's demand, the owner may bring an action in the Superior Court to enforce his claim for compensation. If the Superior Court decides in favor of the owner and orders the cable operator to pay the owner's claim for compensation, the cable operator shall reimburse the owner for reasonable attorneys fees incurred by the owner in litigation of this matter before the Superior Court. The action shall be brought within 6 months of the date on which the owner first made demand upon the cable operator for compensation and not after that date.

It shall be presumed that reasonable compensation shall be the nominal amount, but such presumption may be rebutted and overcome by evidence that the owner has a specific alternative use for the space occupied by cable television system facilities or equipment, the loss of which shall result in a monetary loss to the owner, or that installation of cable television system facilities or equipment upon the multiple dwelling unit will otherwise substantially interfere with the use and occupancy of the unit or property to an extent which causes a decrease in the resale or rental value of the real estate. In determining the damages to any such real estate injured when no part of it is being taken, consideration is to be given only to such injury as is special and peculiar to the real estate and there shall be deducted from the damages the amount of any benefit to the real estate by reason of the installation of cable television system facilities.

G. None of the steps enumerated in paragraph F, to claim or enforce a demand for compensation in excess of the nominal amount, shall impair or delay the right of the cable operator to install, maintain or remove cable television system facilities at a tenant's dwelling on the real estate. The Superior Court shall have original jurisdiction to enforce this paragraph.

H. No person owning, leasing, controlling or managing any multiple dwelling unit served by a cable television system may discriminate in rental or other charges between tenants who subscribe to these services and those who do not, or demand or accept payment in any form for the affixing of cable television system equipment on or under the real estate, provided that the owner of the real estate may require, in exchange for permitting the installation of cable television system equipment within and upon the real estate, reasonable compensation to be paid by the cable operator. The compensation shall be determined in accordance with this subsection.

I. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Cable television operator," "cable operator" or "operator" means any person, firm or corporation owning, controlling, operating, managing or leasing a cable system or any lawful agent appointed by any one of the persons or entities mentioned in this subparagraph.

(2) "Multiple dwelling unit" means any building or structure which contains 2 or more apartments or living units.

(3) "Owner" means the person or persons possessing legal title to real estate or the lawful agent appointed by an owner.

(4) "Tenant" means one who has the temporary use and occupation of real property owned by another person.

Effective September 29, 1987.

CHAPTER 295

S.P. 461 — L.D. 1418

AN ACT to Amend the Probate Code to Allow Reasonable Compensation for Public Guardians or Conservators.

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

18-A MRSA §5-612, as enacted by PL 1979, c. 540, §1, is amended to read:

§5-612. Compensation

(a) ~~The public guardian or conservator of a mentally retarded person shall receive such reasonable amounts for its expenses as guardian or conservator as the probate court Probate Court may allow. The amounts so allowed shall be allocated to a trust an account from which may be drawn expenses for filing fees, bond premiums, court costs and other expenses required in the administration of the functions of the public guardian or conservator. No amounts thus received shall may inure to the benefit of any employee of the public guardian or conservator. Any balance in the trust account at the end of a fiscal year shall not lapse but shall be carried forward from year to year and used for the purposes provided for in this subsection.~~

(b) ~~The public guardian or conservator of an incapacitated person in need of protective services shall not receive any compensation, profit or benefit from a ward or protected person or from any other source for service as public guardian or conservator. Any personal expenditures made on the ward's or protected person's behalf by the public guardian or conservator shall, when properly evidenced, be reimbursed out of the ward's or protected person's estate. Claims for services rendered by state agencies shall be submitted to the probate judge for approval before payment.~~

Effective September 29, 1987.

CHAPTER 296

S.P. 466 — L.D. 1423

AN ACT to Adjust Time Limits and Clarify Responsibility for Certification and Registration of Deaths.

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

Sec. 1. 22 MRSA §2842, first ¶ is amended to read:

Except as authorized by the department, a certificate of each death which occurs in this State shall be filed with the clerk of the municipality where death occurred within ~~3 days~~ a reasonable period of time, as specified by department regulation, after the day on which death occurred and prior to the removal of the body from the State.

Sec. 2. 22 MRSA §2842, sub-§2, amended by PL 1977, c. 382, is further amended to read:

2. Medical certificate by physician. The medical certification of the cause of death shall be completed and signed within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death in a timely fashion by a physician authorized to practice in the State who has knowl-