

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

serve an amount equal to interest payments due during the next 18 months on any mortgage loan or other long-term financing of the facility, including taxes and insurance.

3. Operating reserve. Each provider shall maintain in escrow an operating reserve in an amount equal to 20% of the total operating costs projected for the first 12 months of operation. Thereafter, each provider shall maintain in escrow an operating reserve in an amount equal to 20% of the total operating costs projected for the 12-month period following the period covered in the most recent annual statement. The projected revenue and expense summary required under section 6223, subsection 1-A shall serve as the basis for computing the operating reserve.

4. Extensive health care guarantee. Each provider which offers an extensive health care guarantee shall maintain an operating reserve in an amount equal to 25% of the total operating costs projected for 12 months of operation. The projected revenue and expense summary required under section 6223, subsection 1-A shall serve as the basis for computing the operating reserve. For the purposes of this subsection, the term "extensive health care guarantee" means a term in the continuing care agreement requiring the provision of health care to the subscriber on a prepaid basis for more than one year.

5. Fewer than all tenants under continuing care agreements. In facilities where not all tenants are under continuing care agreements, the reserve requirements of subsections 3 and 4 shall be computed only with respect to the proportional share of operating expenses that is applicable to subscribers.

6. Trust payments; waiver of escrow requirements. When principal and interest payments are paid to a trust which is beneficially held by the subscribers as described in section 6203-A, the superintendent may waive all or any portion of the escrow requirements for mortgage principal and interest contained in subsection 2 if the superintendent finds that a waiver is consistent with the security protections intended by this chapter.

7. Extension of time. The superintendent, upon approval of a plan for fulfilling the requirements in subsections 2 to 4 and upon demonstration by the facility of an annual increase in liquid reserves, may extend the time for compliance.

Sec. 21. 24-A MRSA §6223, sub-§1, as enacted by PL 1987, c. 482, §1, is amended to read:

1. Financial statements. Financial statements of the provider, including, as a minimum, a balance sheet, income statement and a statement of changes in financial position, presented in conformance with generally accepted accounting principles and certified by an independent certified public accountant, and including notes to the financial statements considered customary or necessary to full disclosure or adequate understanding of the financial statements, financial condition and operation;

Sec. 22. 24-A MRSA §6223, sub-§1-A is enacted to read:

1-A. Financial information. The following financial information:

A. A listing of the assets maintained in the liquid reserve required in section 6215;

B. The level of participation in Medicare or Medicaid programs, or both;

C. Other reasonable data, financial statements and pertinent information the superintendent may require with respect to the provider or the facility, or its directors, trustees, members, branches, subsidiaries or affiliates, to determine the financial status of the facility and the management capabilities of its managers and owners; and

D. A computation of the annual long-term debt service and a projected annual revenue and expense summary, on a form prescribed by the superintendent. This projection shall serve as the basis for determining the amount of the minimum liquid reserve required by section 6215;

Sec. 23. Sunset. This Act is repealed effective October 1, 1994 provided that it shall continue to apply to any continuing care retirement community which applied for a preliminary certificate of authority after the effective date of the Act but prior to October 1, 1994.

See title page for effective date.

CHAPTER 344

H.P. 294 - L.D. 406

An Act to Strengthen the Laws Concerning Marijuana

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

Sec. 1. 17-A MRSA §1103, sub-§2, ¶A, as amended by PL 1977, c. 647, §2, is further amended to read:

A. A Class B crime if the drug is a schedule W drug or if it is marijuana in a quantity of ~~1,000~~ 20 pounds or more;

Sec. 2. 17-A MRSA §1106, sub-§3, as amended by PL 1987, c. 535, §4, is further amended to read:

3. A person shall be presumed to be unlawfully furnishing a scheduled drug if ~~he~~ that person intentionally or knowingly possesses more than ~~4-1/2~~ 1 1/4 ounces of marijuana, 14 grams or more of cocaine or 14 grams or more of heroin.

Sec. 3. 22 MRSA §2382, sub-§1, as enacted by PL 1987, c. 747, §3, is amended to read:

1. Marijuana. Possession of a usable amount of marijuana is a civil violation for which a forfeiture of not ~~more~~ less than \$200 ~~may nor more~~ than \$400 shall be adjudged for the first offense. A forfeiture of \$400 shall be adjudged for the 2nd and subsequent offenses within a 6-year period.

See title page for effective date.

CHAPTER 345

H.P. 205 - L.D. 285

An Act to Improve Regulatory Oversight of Health Maintenance Organizations

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

Sec. 1. 24-A MRSA §4204, sub-§2-A, ¶D, as amended by PL 1985, c. 704, §6, is repealed and the following enacted in its place:

D. The health maintenance organization is financially responsible and, among other factors, shall reasonably be expected to meet its obligations to enrollees and prospective enrollees.

(1) The health maintenance organization possesses and maintains minimum surplus as follows:

(a) As of December 31, 1989, \$200,000;

(b) As of December 31, 1990, \$300,000; and

(c) As of December 31, 1991, \$400,000.

(2) A health maintenance organization which reports incurred, but not reported, claims liability in its financial statements as long-term debt shall establish and maintain a liquid cash reserve represented by assets consisting of cash, prime commercial paper, marketable securities with maturities not exceeding 2 years' duration and certificates of deposit issued by banks and thrift institutions located within the United States and which are fully insured by the Federal Deposit Insurance Corporation. The value of the cash reserves shall at least equal the health maintenance organization's claims incurred, but not reported, as determined monthly by methods of claims valuation found acceptable by the superintendent. Any nonprofit

health maintenance organization employing fund accounts shall maintain restricted assets in a like manner. These funds shall be in addition to and shall not be included as a part of working capital funds required by rule of the Bureau of Insurance.

(3) In making the determination whether the health maintenance organization is financially responsible, the superintendent may also consider:

(a) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a nonprofit hospital or medical service corporation, a government or any other organization for insuring or providing the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the plan;

(d) Any agreement with providers for the provision of health care services; and

(e) Any arrangements for insurance coverage or an adequate plan for self-insurance to respond to claims for injuries arising out of the furnishing of health care services.

Sec. 2. 24-A MRSA §4230 is enacted to read:

§4230. Trade practices and frauds

Chapter 23 and any rules adopted pursuant to it, to the extent not inconsistent with this chapter and the reasonable implications of this chapter, shall apply to health maintenance organizations.

See title page for effective date.

CHAPTER 346

H.P. 513 - L.D. 693

An Act to Reform the Maine Board of Professional Surveyors Law

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