MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib

Reproduced from scanned originals with text recognition applied

(searchable text may contain some errors and/or omissions)

LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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
1990

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

SECOND REGULAR SESSION

of the

ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

2. Preexisting conditions. No provision in a succeeding insurer's or nonprofit hospital or medical service corporation's contract of replacement coverage may reduce or exclude benefits to enrollees covered under the prior health maintenance organization's contract on the date of discontinuance, on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding contract, except to the extent that benefits for the condition would have been reduced or excluded under the prior contract.

§4233. Registration, regulation and supervision of holding company systems

Every domestic health maintenance organization shall be subject to the requirements of section 222, subsections 2 to 9 and subsections 13 to 18, and shall be deemed to be an insurer for purposes of those provisions of chapter 57, subchapters I and II.

See title page for effective date.

CHAPTER 843

H.P. 1730 - L.D. 2389

An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums

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

Sec. 1. 24-A MRSA §2304, sub-§4, as enacted by PL 1969, c. 132, §1, is amended to read:

4. ~~A~~ Except as provided in section 2304-A, a rate filing and its supporting data are confidential until the filing becomes effective.

Sec. 2. 24-A MRSA §2304-A is enacted to read:

§2304-A. Physicians and surgeons liability insurance rates

Physicians and surgeons liability insurance rate filings are first subject to this section, but any other provisions of this chapter not inconsistent with this section also apply. Notwithstanding this section, filings made by advisory organizations are subject to this section only to the extent permitted by law, and laws prohibiting activities or the filing of certain information by advisory organizations supersede the provisions of this section.

1. Contents of filing. Every filing subject to this section must include the data, statistics, schedules or information necessary for the superintendent to determine whether the filing complies with this chapter. The superintendent may waive any noncompliance with this subsection if the superintendent determines that the noncompliance is immaterial. The required information includes, but is not limited to:

A. Rates:

(1) Current rates by rating class at basic limits and larger optional limits of coverage; and

(2) Proposed rates by rating class at basic limits and larger optional limits of coverage;

B. Historical experience:

(1) Maine total limits premium, paid claims, paid allocated loss adjustment expenses, incurred claims, incurred allocated loss adjustment expenses, and incurred loss ratio for not less than the 5 most recent years available;

(2) Maine basic limits written or earned premium or exposure, paid claims, paid allocated loss adjustment expenses, incurred claims, incurred allocated loss adjustment expenses, and incurred loss ratio or pure premium for not less than the 5 most recent years available; and

(3) Any other experience used to support the proposed changes;

C. Adjustment factors:

(1) Premiums or exposure at basic limit adjusted to current rate level or exposure, and a description of the method used to adjust historical earned premium or exposure to current level;

(2) Loss development exhibits showing the change in paid and incurred losses and allocated loss adjustment expenses from period to period, evaluated at least annually, and an explanation of the loss development method used to project the ultimate value of claims and allocated loss adjustment expenses;

(3) Trend factor calculations and application, including the following:

(a) An explanation of the trending procedure and assumptions;

(b) Trend based on experience in this State as well as other actuarially sound sources of trend information; and

(c) Frequency and severity trend factor calculations, shown separately; and

(4) Credibility weighting of alternative sources of data, including a description of the methodology used and the appropriateness of the method to its use in the filing;

D. Classification exposure, premium and loss experience in the State for not less than the 5 most recent years available, and other experience determined to be credible in selecting the proposed classification relativities. Classification experience must be provided in any filing in which the filer has proposed changes to the classification relativities, but not less frequently than every 3 years;

E. Expense provisions used in developing the proposed rates, an explanation of the procedure used to develop these provisions, and the actual historical expenses for each of the 3 most recent years available in the following categories: commissions; other acquisition expenses; general expenses; taxes, licenses and fees; unallocated loss adjustment expenses; and other expenses;

F. An evaluation of any law changes that will become effective during the period in which rates will be in effect or any law changes in effect but not evaluated in a prior filing and not reflected in the reported experience;

G. An estimate of the investment income that will be earned on loss and loss adjustment expense reserves and unearned premium reserves during the period the rates are to be in effect and claims remain unpaid, and evidence that the filing gives full consideration to that estimated income. The filing must include the expected expense and claim payout pattern and an explanation of the derivation of the payout pattern; and

H. Information regarding cost or expense control programs, procedures or practices implemented by the filer to improve efficiency of the company or to control or limit premium charges to insureds.

2. Additional information. The superintendent may require, at any time, any additional information the superintendent determines necessary.

3. Assertion of confidential status. Any insurer, rating organization or advisory organization that asserts that any portion of a filing is entitled to confidential status for purposes of subsection 5, shall identify that portion of the filing at the time of filing and shall state the basis for the assertion.

4. Notice of filing. The superintendent shall maintain a list of all persons who request notice of physicians and surgeons liability insurance rate filings. Within 10 days of receipt of such a rate filing, the superintendent shall notify each person on that list.

5. Interested persons. Immediately after receiving a filing under this section, the superintendent shall grant access to the entire filing, including confidential information, to any interested person who pays premiums for physicians and surgeons liability coverage to the company that made the filing, and to any person or organization representing a group of such persons. Any person who has access to confidential information under this section shall maintain the confidentiality of that information by means of a confidentiality agreement or pursuant to a protective order of the superintendent.

6. Public hearing. The superintendent may hold a public hearing on any filing, as provided in sections 229 to 235. At the request of any person described in subsection 5, the superintendent shall, as required by section 229, hold a public hearing on the filing.

7. Procedures; rules. The superintendent may adopt rules under Title 5, chapter 375, establishing procedures for the administration of this section.

Sec. 3. Bureau of Insurance study. The Department of Professional and Financial Regulation, Bureau of Insurance shall review the study conducted in 1989 by the Minnesota Department of Commerce relating to closed medical malpractice liability claims in Minnesota, North Dakota and South Dakota. The purpose of the review is to determine what closed claims information should be collected in the State in order to provide a data base to evaluate the effects of past law changes and the likely effect of proposals to change laws relating to tort law and insurance regulation, or for any purpose that the bureau considers appropriate to assist it in performing its functions. After determining the information that is appropriate to collect, the bureau shall examine any medical malpractice rate filing made during 1990 to determine whether the filing produces that information, directly or by extraction. To the extent the filing does not produce that information, the bureau shall recommend an appropriate, cost-effective manner of collecting the information, through a rate filing, a closed claims study or otherwise. The bureau shall report its determinations and recommendations by January 1, 1991, to the Joint Standing Committee on Banking and Insurance and to the Office of the Executive Director of the Legislative Council.

Sec. 4. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1990-91
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF	
Bureau of Insurance	
All Other	$10,000
Provides funds for a consultant to collect claims information from medical malpractice rate filings.	

See title page for effective date.