LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

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PUBLIC LAWS

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newal date ~~shall be~~ is subject to all requirements governing new applicants under this chapter, except that the board may ~~in its discretion~~, giving due consideration to the protection of the public, waive examination ~~if the renewal application is made within 2 years from the date of the expiration~~ or other requirements. The board may assess penalties for late renewals more than 90 days after the date of expiration.

Sec. 21. 32 MRSA §2405, as amended by PL 1981, c. 561, is repealed.

Sec. 22. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1991-92	1992-93
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Oil and Solid Fuel Board		
Personal Services	$1,500	$1,500
All Other	11,500	11,500
Provides funds for per diems and board expenses, printing, advertising and rulemaking relating to the regulation of chimney and fireplace installers.		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL	$13,000	$13,000

See title page for effective date.

CHAPTER 199

H.P. 201 - L.D. 292

An Act to Increase Public Awareness of the Availability of Living Wills

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

29 MRSA §540-B is enacted to read:

§540-B. Living wills

Subject to available funding, the Secretary of State shall make living will forms available in offices of the Division of Motor Vehicles. The form must be in substantially the form provided in Title 18-A, section 5-702 and with the addition of a title at the top of the form to read "LIVING WILL" and the following information at the end: "Completion of this form is optional."

See title page for effective date.

CHAPTER 200

S.P. 265 - L.D. 742

An Act Relating to Health Insurance

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

PART A

Sec. A-1. 24 MRSA §2342, sub-§3, as enacted by PL 1989, c. 556, Pt. C, §1, is amended to read:

3. Information required. Each person, partnership or corporation licensed pursuant to this section shall, at the time of initial licensure and on or before April 1st of each succeeding year, provide the Bureau of Insurance with the following information:

A. The process by which the entity carries out its utilization review services, including the categories of health care personnel that perform any activities coming under the definition of utilization review and whether or not these individuals are licensed in the State;

B. The process used by the entity for addressing beneficiary or provider complaints;

C. The types of utilization review programs offered by the entity, such as:

(1) Second opinion programs;

(2) Prehospital admission certification;

(3) Preinpatient service eligibility determination; or

(4) Concurrent hospital review to determine appropriate length of stay; and

D. The process chosen by the entity to preserve beneficiary confidentiality of medical information.

As part of its initial application, the entity shall submit copies of all materials to be used to inform beneficiaries and providers of the requirements of its utilization review plans and their rights and responsibilities under the plan.

Sec. A-2. 24-A MRSA §2771, sub-§3, as enacted by PL 1989, c. 556, Pt. C, §2, is amended to read:

3. Information required. Each person, partnership or corporation licensed pursuant to this section shall, at the time of initial licensure and on or before April 1st of each succeeding year, provide the Bureau of Insurance with the following information:

A. The process by which the entity carries out its utilization review services, including the categories of

health care personnel that perform any activities coming under the definition of utilization review and whether or not these individuals are licensed in the State;

B. The process used by the entity for addressing beneficiary or provider complaints;

C. The types of utilization review programs offered by the entity, such as:

(1) Second opinion programs;

(2) Prehospital admission certification;

(3) Preinpatient service eligibility determination; or

(4) Concurrent hospital review to determine appropriate length of stay; and

D. The process chosen by the entity to preserve beneficiary confidentiality of medical information.

As part of its initial application, the entity shall submit copies of all materials to be used to inform beneficiaries and providers of the requirements of its utilization review plans and their rights and responsibilities under the plan.

PART B

Sec. B-1. 24 MRSA §2318, as enacted by PL 1975, c. 276, §1, is repealed and the following enacted in its place:

§2318. Maternity benefits and dependent coverage

1. Definition. "Dependent children" means children who are under 19 years of age and are children, stepchildren and adopted children of the subscriber or member or spouse of the subscriber or member.

2. Maternity benefits. All individual or group contracts issued by any nonprofit hospital or medical service organization operating pursuant to this chapter must provide to unmarried subscribers or members and minor dependents of the subscribers or members the same minimum maternity benefits and the same option for additional maternity benefits, at appropriate rates and under the same terms and conditions as those benefits or options for benefits are provided to married subscribers or members. This requirement applies to all individual or group contracts issued or renewed after the effective date of this subsection.

3. Coverage. All individual or group contracts issued in accordance with the requirements of this section must provide unmarried subscribers with the same benefits or option of benefits for dependent children as is extended to dependent children of married subscribers, at appropriate rates and under the same terms and conditions.

4. Financial dependency. Financial dependency of dependent children on the subscriber or member or the spouse of the subscriber or member may not be required as a condition for eligibility for coverage.

Sec. B-2. 24 MRSA §2332-A, as enacted by PL 1987, c. 402, Pt. A, §149, is amended to read:

§2332-A. Coordination of benefits

Provisions contained in group and nongroup nonprofit hospital, medical service or health care subscriber contracts relating to coordination of benefits payable under the contract and under other plans of insurance or of health care coverage under which the subscriber or ~~his~~ the subscriber's dependents may be covered ~~shall~~ must conform to rules promulgated by the superintendent. The rules may establish uniformity in the permissive use of coordination of benefits provisions ~~in order~~ to ensure that the subscriber receives full benefits for covered medical services, to enhance cost containment through avoidance of windfall payments and to avoid claim delays and misunderstandings that otherwise result from the use of inconsistent or incompatible provisions among the several insurers and nonprofit hospital, medical service and health care plans.

Sec. B-3. 24-A MRSA §2742, as enacted by PL 1975, c. 276, §2, is repealed and the following enacted in its place:

§2742. Child coverage

1. Definition. "Dependent children" means children who are under the age of 19 and are children, stepchildren and adopted children of the policyholder or spouse of the policyholder.

2. Coverage. All insurance policies or plans issued in accordance with the requirements of section 2741 must provide unmarried women policyholders with the coverage or option of coverage for dependent children, under the same terms and conditions and at appropriate rates as are extended to married policyholders with dependents.

3. Financial dependency. Financial dependency of dependent children on the policyholder or the spouse of the policyholder may not be required as a condition for eligibility coverage.

Sec. B-4. 24-A MRSA §2833, as amended by PL 1985, c. 652, §52, is repealed and the following enacted in its place:

§2833. Child coverage

1. Definition. "Dependent children" means children who are under the age of 19 and are children, stepchildren and adopted children of the certificate holder or spouse of the certificate holder.

2. Coverage. All group or blanket health insurance plans issued in accordance with the requirements of section 2832 must provide unmarried women certificate holders with the option of coverage of their children from the date of birth. A certificate holder who, pursuant to the laws of this State or any other state, has been adjudicated or has acknowledged himself to be the father of an illegitimate child must be given the option of coverage for that child from the date of his adjudication or acknowledgement of paternity. This optional coverage must be the same as that provided the children of a married certificate holder with family or dependent coverage.

3. Financial dependency. Financial dependency of dependent children on the certificate holder or the spouse of the certificate holder may not be required as a condition for eligibility for coverage.

Sec. B-5. 24-A MRSA §4234 is enacted to read:

§4234. Child coverage

1. Definition. "Dependent children" means children who are under the age of 19 and are children, stepchildren and adopted children of the enrollee or spouse of the enrollee.

2. Coverage. All individual or group coverage subject to this chapter must provide unmarried enrollees with the same benefits or option of benefits for dependent children as is extended to dependent children of married enrollees, at appropriate rates and under the same terms and conditions.

3. Financial dependency. Financial dependency of dependent children on the enrollee or the spouse of the enrollee may not be required as a condition for eligibility for coverage.

PART C

Sec. C-1. 24-A MRSA §5052-A is enacted to read:

§5052-A. Trial examination period

Nursing home care and long-term care policies must have a notice prominently printed on the first page of the policy or certificate or attached to the first page stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if for any reason, after examination of the policy or certificate, the applicant is not satisfied.

Sec. C-2. 24-A MRSA §5053, as enacted by PL 1985, c. 648, §12, is amended to read:

§5053. Rulemaking, disclosure standards, compensation

The superintendent may promulgate reasonable rules to provide for the full and fair disclosure of information in connection with the sale of long-term and nursing home care policies, including, but not limited to, outline of coverage requirements and requirements relating to the replacement sale of the policies and compensation or commission to an agent or representative for the sale of a nursing home or long-term care policy or certificate.

The superintendent may promulgate reasonable rules setting or limiting the rate of compensation or commission to an agent or other representative for the sale of a nursing home or long-term care policy or certificate and regarding replacement sale of a nursing home or long-term care policy or certificate.

Sec. C-3. 24-A MRSA §5056 is enacted to read:

§5056. Standards for marketing

Every insurer, health care service plan or other entity marketing nursing home care or long-term care insurance coverage in this State, directly or through its producers, shall:

1. Policy comparison. Establish marketing procedures to ensure that any comparison of policies by its agents or other producers is fair and accurate;

2. Excessive insurance. Establish marketing procedures to ensure that excessive insurance is not sold or issued. The procedures must include a specific standard for persons covered by Medicaid;

3. Replacement policy. Establish marketing procedures that set forth a mechanism or formula for determining whether a replacement policy or certificate contains benefits clearly and substantially greater than the benefits under the replaced policy; and

4. Compliance procedures. Establish auditable procedures for verifying compliance with the standards set out in this section.

PART D

Sec. D-1. 24-A MRSA §2627, as amended by PL 1969, c. 177, §45, is repealed.

Sec. D-2. 24-A MRSA §2627-A is enacted to read:

§2627-A. Dividends and experience refunds

The following requirements apply to all group life insurance with the exception of insurance in which the policyholder is subject to the fiduciary standards of the federal Employee Retirement Income Security Act of 1974, ERISA, 29 United States Code, Section 1001-1381 (1975).

1. Refunds. The amount by which any dividend, experience refund or rate reduction exceeds the amount

of premium contributed by the group policyholder for the same period must be refunded to the employees, members or debtors in proportion to their premium contributions for that period, except as provided in subsection 2.

2. Refund amounts less than $25 per employee, member or debtor. If the refunds required by subsection 1 would average less than $25 per employee, member or debtor, then the group policyholder may request approval from the superintendent to apply those amounts in a different manner. The superintendent shall approve the request if, in the superintendent's opinion, the manner of application proposed would be for the sole benefit of insured employees, members or debtors.

Sec. D-3. 24-A MRSA §2812, as amended by PL 1969, c. 177, §52, is repealed.

Sec. D-4. 24-A MRSA §2812-A is enacted to read:

§2812-A. Dividends and experience refunds

The following requirements apply to all group health insurance with the exception of insurance in which the policyholder is subject to the fiduciary standards of the federal Employee Retirement Income Security Act of 1974, ERISA, 29 United States Code, Section 1001-1381 (1975).

1. Refunds. The amount by which any dividend, experience refund or rate reduction exceeds the amount of premium contributed by the group policyholder for the same period must be refunded to the employees, members or debtors in proportion to their premium contributions for that period, except as provided in subsection 2.

2. Refund amounts less than $25 per employee, member or debtor. If the refunds required by subsection 1 would average less than $25 per employee, member or debtor, then the group policyholder may request approval from the superintendent to apply those amounts in a different manner. The superintendent shall approve the request if, in the superintendent's opinion, the manner of application proposed would be for the sole benefit of insured employees, members or debtors.

See title page for effective date.

CHAPTER 201

H.P. 797 - L.D. 1143

An Act to Disseminate More Rapidly Information Concerning Missing Children

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

25 MRSA §2151, as enacted by PL 1985, c. 275, §2, is amended to read:

§2151. Missing children; information sent to National Crime Information Center

1. Definition. As used in this section "missing child" means any individual less than 18 years of age whose whereabouts are unknown to that individual's legal custodian ~~if:~~ .

~~A. The circumstances surrounding that individual's disappearance indicate that the individual may possibly have been removed by another from the control of the individual's legal custodian without the custodian's consent; or~~

~~B. The circumstances of the case strongly indicate that the individual is likely to be abused or sexually exploited.~~

2. Report. Upon receiving a report of a missing child, a law enforcement agency shall conduct a preliminary investigation to determine whether the child is missing. ~~Within 48 hours of receiving the report, if~~ If the preliminary investigation reveals that there is probable cause to believe the child is missing, the agency shall immediately enter identifying and descriptive information about the missing child into the National Crime Information Center computer and into any state computer ~~which~~ that the Commissioner of Public Safety may designate to receive that information. Law enforcement agencies having direct access to the National Crime Information Center computer shall enter and retrieve the data directly and ~~shall~~ cooperate in the entry and retrieval of data on behalf of law enforcement agencies ~~which~~ that do not have direct access to the systems.

Immediately after a missing child is located, the law enforcement agency which located or returned the missing child shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the National Crime Information Center computer.

3. Medical and dental records. No later than 60 days after the original entry of the record into the National Crime Information Center computer and the state computer, the entering law enforcement agency shall verify and update the record with any additional information, including, where available, medical and dental records.

See title page for effective date.

CHAPTER 202

H.P. 898 - L.D. 1295

An Act to Clarify the Time for Taking an Appeal from the Juvenile Court to the Superior Court

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