

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**SECOND SPECIAL SESSION**

December 12, 1991 to January 7, 1992

**SECOND REGULAR SESSION**

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
NON-EMERGENCY LAWS IS  
JUNE 30, 1992

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 Company  
Augusta, Maine  
1992

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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**§2849. Continuity on replacement of group policy**

**1. Policies subject to this section.** Notwithstanding any other provision of law, this section applies to all group medical insurance policies issued by insurers or health maintenance organizations to policyholders who are obtaining coverage for a group or subgroup to replace coverage under a different contract or policy issued by any nonprofit hospital or medical service organization, insurer or health maintenance organization. For purposes of this section, the group policy issued to replace the prior contract or policy is the "replacement policy." The group contract or policy being replaced is the "replaced contract or policy."

**2. Persons provided continuity of coverage under this section.** This section provides continuity of coverage to persons who were covered under the replaced contract or policy at any time during the 90 days before the discontinuance of the replaced contract or policy.

**3. Prohibition against discontinuity.** In a replacement policy subject to this section, an insurer or health maintenance organization may not, for any person described in subsection 2:

A. Request that the person provide or otherwise seek to obtain evidence of individual insurability. This in no way limits the insurer's right to require information concerning the health of the individuals in the group to determine whether the group as a whole is insurable or to determine rates for the group as a whole;

B. Decline to enroll the person on the basis of evidence of insurability if the person is otherwise eligible for coverage; or

C. Impose a preexisting condition exclusion period or waiting period on that person, except as provided in this section.

**4. Persons covered for fewer than 90 continuous days.** Notwithstanding subsection 3, a person who was covered under the replaced contract or policy for fewer than 90 continuous days may be subject to a preexisting condition exclusion or waiting period in the replacement policy, provided the period is not longer than 90 days, and credit is given for satisfaction or partial satisfaction of the same or similar provisions under the replaced contract or policy.

**5. Liability after discontinuance.** The nonprofit hospital or medical service organization, insurer or health maintenance organization that issued the replaced contract or policy is liable after discontinuance of that contract or policy only to the extent of its accrued liabilities and extensions of benefits.

**Sec. 8. 24-A MRSA §2849-A, sub-§1,** as enacted by PL 1989, c. 867, §8 and affected by §10, is amended to read:

**1. Policies subject to this section.** This section applies to group policies that provide hospital or medical expense coverage and group policies that provide benefits for loss of time from work or specific indemnity during hospital confinement. This section does not apply to group policies providing coverage only for dental expense or to group long-term care policies as defined in section 5051 or group short-term and long-term disability policies.

**Sec. 9. 24-A MRSA §2849-B, sub-§1,** as enacted by PL 1989, c. 867, §8 and affected by §10, is amended to read:

**1. Policies subject to this section.** This section applies to all group medical insurance policies issued by insurers or health maintenance organizations, except group long-term care policies as defined in section 5051 and group long-term disability policies.

**Sec. 10. 24-A MRSA §2849-B, sub-§3, ¶A,** as enacted by PL 1989, c. 867, §8 and affected by §10, is amended to read:

A. The request for enrollment is made within 30 days after termination of coverage under a prior contract or policy and the individual did not request coverage initially under the succeeding contract or policy because that individual was covered under a prior contract or policy and coverage under that contract or policy ceased due to termination of employment, termination of the group policy or group contract under which the individual was covered, death of a spouse or divorce; or

**Sec. 11. 24-A MRSA §2850, sub-§1,** as enacted by PL 1989, c. 867, §8 and affected by §10, is amended to read:

**1. Application.** This section applies to individual medical insurance policies subject to chapter 33, except long-term care policies defined in section 5051, long-term disability policies; Medicare supplement policies, converted policies issued under section 2809-A and policies designed to cover specific diseases, hospital indemnity or accidental injury only.

See title page for effective date.

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## CHAPTER 696

H.P. 1490 - L.D. 2102

**An Act to Prohibit Unfair Rating Practices in  
Small Group Health Insurance**

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

**24-A MRSA §2808-A**, as amended by PL 1991, c. 353, is further amended to read:

**§2808-A. Rating practices in group health insurance**

**1. Groups with fewer than 25 members.** Except as provided in subsection 3, no insurer may increase charge group health insurance premium rates for ~~a group~~ groups with fewer than 25 insured members, excluding dependents, ~~on the basis of that vary based on~~ the claims experience of ~~that the~~ group.

**2. Subgroups; rate differentiation.** Except as provided in subsection 3, no insurer may increase charge group health insurance premium rates on a basis which that discriminates between different subgroups of a group according to the claims experience of the subgroup. The term "subgroup," as used in this section, refers to an employer with fewer than 25 insured employees within a multiple employer trust, or to any similar subdivision of a larger group covered by a single group health insurance policy or contract.

**3. Tiers of rates allowed.** Groups Except as provided in paragraph C, groups or subgroups subject to subsection 1 or 2 may be divided into 2 or more tiers for rating purposes based on the experience of the group or subgroup provided that the following conditions are satisfied.

A. The rates for the highest tier may not exceed the average rate for all tiers by more than 20%.

B. At the time of application, the insurer must provide to the prospective policyholder a prominent disclosure indicating that premium rates may change based on the claims experience of the group or subgroup. If the policyholder is a multiple employer trust, the policyholder must provide this disclosure to each employer at the time of application to the trust. For multiple employer trusts in existence on January 1, 1990, this disclosure procedure must be completed prior to the first subsequent renewal.

C. Exceptions to subsections 1 and 2 do not apply to policies executed, delivered, issued for delivery, continued or renewed on or after January 1, 1993.

**4. Applicability.** This section applies to all policies executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1990. This section applies to any certificates delivered to residents of this State under a group health insurance policy described in section 2805-A, 2806 or 2808 and executed, continued or renewed on or after January 1, 1990. For

purposes of this section, all contracts ~~shall be~~ are deemed to ~~be~~ renewed no later than the next yearly anniversary of the contract date.

~~5. Sunset. Unless continued or modified by law, this section is repealed on October 1, 1992.~~

See title page for effective date.

**CHAPTER 697**

**H.P. 1552 - L.D. 2190**

**An Act to Define Conflict of Interest for Probate Judges**

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

**Sec. 1. 4 MRSA §307**, is amended by adding at the end a new paragraph to read:

A judge is considered to be interested in an estate or other probate proceeding, including adoptions, if the judge or a person with whom the judge practices law represents a party in the proceeding. When such representation begins, the judge shall transfer the matter as provided in this section, after which transfer the judge or the person with whom the judge practices law may continue such representation, except that, after a formal probate proceeding has been initiated before a judge, that judge is forever barred from assuming representation of a party in that same proceeding without regard to whether or not the proceeding has been transferred. A petition requesting a transfer and the petition related to the matter being transferred filed simultaneously are not considered formal probate proceedings for the purposes of this paragraph.

See title page for effective date.

**CHAPTER 698**

**H.P. 1532 - L.D. 2163**

**An Act to Amend the State's Oil Spill Prevention and Response Provisions**

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

**Sec. 1. 5 MRSA §12004-I, sub-§24-B** is enacted to read:

<b>24-B.</b>	<u>Oil Spill</u>	<u>Expenses and</u>	<u>38 MRSA</u>
<u>Environment:</u>	<u>Advisory</u>	<u>Legislative</u>	<u>§551-A</u>
<u>Natural</u>	<u>Committee</u>	<u>per diem</u>	
<u>Resources</u>			