

# 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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**Sec. 7. 24-A MRSA §4224**, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

**§4224. Confidentiality; liability; access to records**

**1. Confidentiality.** Any data or information pertaining to the diagnosis, treatment or health of an enrollee or applicant obtained from that enrollee or applicant or a provider by a health maintenance organization must be held in confidence and may not be disclosed to any person except: to the extent that it may be necessary to carry out the purposes of this chapter; upon the express consent of the enrollee or applicant; pursuant to statute or court order for the production of evidence or the discovery of evidence; or in the event of claim or litigation between that enrollee or applicant and the health maintenance organization when such data or information is pertinent. A health maintenance organization is entitled to claim any statutory privileges against such disclosure that the provider who furnished such information to the health maintenance organization is entitled to claim.

**2. Liability.** A person who, in good faith and without malice, as a member, agent or employee of a quality assurance committee, assists in the origination, investigation or preparation of a report or information related to treatment previously rendered, submits that report or information to a health maintenance organization or appropriate state licensing board, or assists the committee in carrying out any of its duties under this chapter is not subject to civil liability for damages as a consequence of those actions, nor is the health maintenance organization that established that committee or the officers, directors, employees or agents of that health maintenance organization liable for the activities of that person. This section may not be construed to relieve any person of liability arising from treatment of a patient.

A. The information considered by a quality assurance committee and the records of its actions and proceedings are confidential and not subject to subpoena or order to produce except in proceedings before the appropriate state licensing or certifying agency or in an appeal, if permitted, from the findings or recommendations of the committee. A member of a quality assurance committee or an officer, director, staff person or other member of a health maintenance organization engaged in assisting the committee or any person assisting or furnishing information to the committee may not be subpoenaed to testify in any judicial or quasi-judicial proceeding if the subpoena is based solely on these activities.

B. Information considered by a quality assurance committee and the records and proceedings of that committee used pursuant to paragraph A by a state licensing or certifying agency or in an appeal must

be kept confidential and are subject to the same provisions concerning discovery and use in legal actions as are the original information and records in the possession and control of the health care review committee.

**3. Access to records.** To fulfill the obligations of a health maintenance organization under section 4204, subsection 2-A, paragraph B, a health maintenance organization must have access to treatment records and other information pertaining to the diagnosis, treatment and health status of any enrollee.

**Sec. 8. 24-A MRSA §4227**, as enacted by PL 1985, c. 704, §8, is amended to read:

**§4227. Choice of alternative coverage**

Any employer of more than 25 50 employees who offers a health maintenance organization, as defined in section 4202 4202-A, shall also offer its employees, at the time of offering and renewal of the health maintenance organization, the option of selecting alternative health benefits coverage which that does not restrict the ability of the covered person persons to obtain health care services from the provider providers of their choice.

Any employer subject to this section shall contribute to the alternative health benefits coverage to the same extent as it contributes to the health maintenance organization.

No An employer, may not be required to pay more for health benefits as a result of the application of this section than would otherwise be paid.

An employer may satisfy the requirements of this section by offering a point-of-service option.

See title page for effective date.

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## CHAPTER 710

**S.P. 856 - L.D. 2180**

### **An Act to Amend the Laws Concerning Adoption Assistance**

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

**Sec. 1. 19 MRSA §541, first ¶**, as amended by PL 1981, c. 57, §1, is further amended to read:

The Department of Human Services is authorized to provide adoption assistance for children in its care or custody or in the custody of a nonprofit private child-placing agency licensed to operate in the State who are legally eligible for adoption and who are physically, men-

~~tally or emotionally handicapped have physical, mental or emotional disabilities~~ or who by virtue of age, sibling relationship, race or the presence of a medical condition otherwise ~~may~~ might not be adopted and for whom reasonable but unsuccessful efforts have been made to place the child without adoption assistance. The Department of Human Services may, subject to rules adopted by the department and regulations of the federal Department of Health and Human Services, reimburse adoptive parents for nonrecurring expenses related to the adoption of children who have physical, mental or emotional disabilities or who by virtue of age, sibling relationship, race or presence of a medical condition otherwise might not be adopted and for whom reasonable but unsuccessful efforts have been made to place the child without such assistance. The Department of Human Services is authorized to use funds for this purpose ~~which are~~ appropriated for child welfare services and funds under ~~Title IV-E and Title IV-B~~ of the United States Social Security Act, Titles IV-B and IV-E, subject to rules adopted by the department and regulations of the federal Department of Health and Human Services.

See title page for effective date.

## CHAPTER 711

S.P. 859 - L.D. 2183

### An Act to Clarify Adult Protective and Guardianship Responsibilities

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

**Sec. 1. 22 MRSA §3471, first ¶,** as enacted by PL 1981, c. 527, §2, is amended to read:

The Legislature recognizes that many adult citizens of the State, because of incapacitation or dependency, are unable to manage their own affairs or to protect themselves from abuse, neglect; or exploitation or physical danger. Often these persons cannot find others able or willing to render assistance. The Legislature intends, through this Act, to establish a program of protective services designed to fill this need and to assure its availability to all incapacitated and dependent adults who are faced with abuse, neglect, exploitation or physical danger the substantial risk of abuse, neglect or exploitation. It is also the intent of the Legislature to authorize only the least possible restriction on the exercise of personal and civil rights consistent with the person's need for services and to require that due process be followed in imposing those restrictions.

**Sec. 2. 22 MRSA §3473, sub-§1, ¶¶A and B,** as enacted by PL 1981, c. 527, §2, are amended to read:

A. Protect abused, neglected or exploited incapacitated and dependent adults and incapacitated

and dependent adults in circumstances which present a substantial risk of abuse, neglect or exploitation;

B. Prevent ~~further~~ abuse, neglect or exploitation;

**Sec. 3. 22 MRSA §3473, sub-§2, ¶A,** as enacted by PL 1981, c. 527, §2, is amended to read:

A. Receive, promptly investigate and determine the validity of reports of alleged abuse, neglect or exploitation or the substantial risk of abuse, neglect or exploitation;

**Sec. 4. 22 MRSA §3473, sub-§3, ¶¶A and B,** as enacted by PL 1989, c. 858, §5, are amended to read:

A. Matters relating to the performance of duties in uncontested guardianship, conservatorship or termination of guardianship or conservatorship proceedings; and

B. Requests for emergency guardianships arising from the need for emergency medical treatment or placement in adult foster homes, boarding homes or nursing homes or for orders necessary to apply for or preserve an estate in emergency situations.

**Sec. 5. 34-B MRSA §1204, sub-§7, ¶¶A and B,** as enacted by PL 1989, c. 265, §2, are amended to read:

A. Matters relating to the performance of duties in uncontested guardianship, conservatorship or termination of guardianship or conservatorship proceedings; and

B. Requests for emergency guardianships arising from the need for emergency medical treatment or placement in adult foster homes, boarding homes or nursing homes or for orders necessary to apply for or preserve an estate in emergency situations.

See title page for effective date.

## CHAPTER 712

H.P. 1558 - L.D. 2196

### An Act to Strengthen the Maine Weights and Measures Law

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

**Sec. 1. 10 MRSA §2402, sub-§17,** as enacted by PL 1973, c. 91, §5, is amended to read:

**17. Standards to enforcement.** Prescribe the standards of weight and measure ~~and~~ additional equipment;