

# 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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ance with section 6404 on that date have 60 days to come into compliance and shall comply with section 6405 beginning with all policies written or renewed on or after March 1, 1993.

**Sec. 34. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1992-93

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Bureau of Insurance**

Positions - Other Count	(2.0)
Personal Services	\$119,031
All Other	33,000
Capital Expenditures	11,900

Provides for the allocation of funds for the salary, fringe benefits and operating expenses of 2 Managing Examiner positions to provide greater scrutiny of insurers operating in Maine.

<b>DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL</b>	\$163,931
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See title page for effective date.

**CHAPTER 829**

**H.P. 1712 - L.D. 2397**

**An Act to Repeal the Sunset on Penalties for Violations of Pesticide Laws**

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

**Sec. 1. 7 MRSA §616-A, sub-§10,** as enacted by PL 1989, c. 841, §3, is repealed.

See title page for effective date.

**CHAPTER 830**

**H.P. 1706 - L.D. 2387**

**An Act to Encourage Expansion of Certain Residency Programs Related to Primary Care Physicians**

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

**Sec. 1. 5 MRSA §12004-I, sub-§29-A,** as enacted by PL 1991, c. 545, §1, is repealed.

**Sec. 2. 10 MRSA c. 110, sub-c. X,** as enacted by PL 1991, c. 545, §2, is repealed.

**Sec. 3. 20-A MRSA §11811** is enacted to read:

**§11811. Curriculum improvements**

The authority may allocate a portion of the fund established in section 11808 to support improvements in the curricula of primary care residency programs offered in this State. In accordance with criteria established by rules adopted pursuant to section 11810, the chief executive officer may disburse funds allocated under this section to hospitals that provide primary care residency programs in the amounts necessary to make improvements in the curricula offered in those programs.

**Sec. 4. 20-A MRSA c. 424** is enacted to read:

**CHAPTER 424**

**MEDICAL EDUCATION AND RECRUITMENT**

**§12101. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Authority.** "Authority" means the Finance Authority of Maine.

**2. Chief executive officer.** "Chief executive officer" means the Chief Executive Officer of the Finance Authority of Maine.

**3. Clinical education.** "Clinical education" means any on-location teaching environment ranging from a one-to-one training between a physician and a medical student to a training in a health clinic or hospital with or without a residency program.

**4. Health professional shortage area.** "Health professional shortage area" means an area in the State lacking in medical professionals as designated by the Commissioner of Human Services.

**5. Insufficient veterinary services.** "Insufficient veterinary services" means an insufficient number of practitioners of veterinary medicine in either a veterinary specialty or a geographic area, as determined by the Commissioner of Agriculture, Food and Rural Resources.

**6. Maine resident.** "Maine resident" means a person who has been a resident of the State for a minimum of one year as determined by rule of the authority who shall consider:

A. Length of residence in Maine for other than tuition purposes;

B. Secondary school attended;

C. Legal residence of parents;

D. Place of voting registration, if registered to vote;

E. Place where taxes are paid; and

F. Other indicators established by the authority.

**7. Nonresident tuition.** “Nonresident tuition” means tuition charged to persons who are not residents in the state where an institution of allopathic or osteopathic medical education with which the authority has a contract is located. If the institution makes no distinction between the tuition charged resident and nonresident students, then “nonresident tuition” means the tuition charged all students.

**8. Primary health care.** “Primary health care” means the practice of general or family medicine, internal medicine, pediatrics, and obstetrics and gynecology.

**9. Underserved group.** “Underserved group” means a population group in the State receiving insufficient primary health care, as determined by the Commissioner of Human Services.

**10. Underserved specialty.** “Underserved specialty” means a medical specialty in which there are insufficient practitioners either throughout the State or within a designated geographic area of the State, as determined by rule of the Commissioner of Human Services.

#### **§12102. Comprehensive programs**

The chief executive officer shall administer the comprehensive programs established in this chapter to address the shortage of primary health care professionals in underserved areas of the State. With the assistance of the Advisory Committee on Medical Education, established by Title 5, section 12004-I, subsection 7, the chief executive officer shall plan, evaluate and update the programs to ensure that Maine residents have access to medical education and to primary health care.

#### **§12103. Access to Medical Education Program**

**1. Positions.** The Access to Medical Education Program is established under this section. Under this program, the chief executive officer shall secure up to 20 positions annually for Maine students at schools of allopathic or osteopathic medical education up to an aggregate of 80 positions. Five positions are for students of osteopathic medicine and 15 positions are for students of allopathic medicine. If there is an insufficient number

of qualified applicants for positions in either discipline, the chief executive officer may increase or decrease the number of positions available in either discipline. The positions are available only to eligible students commencing professional education on or after January 1, 1993.

**2. Application process.** Students shall apply directly to an institution of allopathic or osteopathic medical education with which the authority has a contract to secure positions.

**3. Requirements.** Each student obtaining a position in an institution of allopathic or osteopathic medical education shall enter into an agreement with the authority by which the student agrees during the student’s medical education to complete clinical education in rural areas and health professional shortage areas of this State as provided in the contract between the institutions of medical education and the authority.

**4. Repayment of tuition differential.** A student receiving a position secured by the authority shall enter into an agreement with the authority promising to pay back to the authority any amounts expended by the authority that reduce the nonresident tuition to be paid by the student. Such an agreement must be on the same terms and conditions as the agreement required by section 12104.

#### **§12104. Loans for medical education**

The Health Professions Loan Program, referred to in this section as the “program,” is established and is administered by the authority.

**1. Eligibility.** Loans are available to Maine residents pursuing allopathic, osteopathic, optometric, veterinary and dentistry education who meet eligibility criteria, established by rule of the authority, which at a minimum must require:

A. That the student show financial need for a loan; and

B. That priority be given to students:

(1) Who have previously received a loan pursuant to this section and who exhibit financial need as determined by the authority; or

(2) Who are participants in the access to medical education program established in this chapter.

Loans under this section are available only to eligible students on or after January 1, 1993.

**2. State contract students.** Students who entered into agreements pursuant to section 11804-A and who

are otherwise eligible are eligible for a loan under this program. Any amount the authority paid on behalf of a state contract student under section 11804-A that is not directly used to secure a position at a school of medicine is deemed a loan for purposes of determining the maximum loan amount a student may receive under this section.

**3. Maximum loan amount.** The chief executive officer may establish the maximum loan amount and may provide for a different maximum loan amount for applicants in different categories.

**4. Allocation of loan fund.** The loan fund must be allocated as follows.

**A.** Ninety percent of the loan fund designated for loans must be available for students of allopathic medicine and osteopathic medicine.

**B.** Up to 10% of the loan fund designated for loans is available for Maine residents studying optometry, veterinary and dental medicine.

**5. Loan agreement.** The student shall enter into a loan agreement that provides for the following.

**A.** Upon completion of professional education the student shall repay the loan in accordance with the following schedule.

(1) A loan recipient who does not obtain loan forgiveness pursuant to this section shall repay the entire principal portion of the loan plus simple interest at a rate to be determined by rule of the authority. Interest does not begin to accrue until the loan recipient completes medical education, including residency and internship. The authority may establish differing interest rates to encourage loan recipients to practice primary health care medicine in the State.

(2) Primary health care physicians and dentists practicing in a designated health professional shortage area, any physician practicing in an underserved specialty or any physician providing services to a designated underserved group are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or \$7,500 for each year of practice.

(3) Veterinarians providing services to Maine residents with insufficient veterinary services are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or \$7,500 for each year of practice.

(4) Any student electing to complete an entire residency at any family practice residency program in the State is forgiven 50% of the original outstanding indebtedness for each year of practice in a designated health professional shortage area or as a physician practicing in an underserved specialty or as a physician providing services to an underserved group.

**B.** Loans must be repaid over a term no greater than 10 years, except that the chief executive officer may extend an individual's term as necessary to ensure repayment of the loan. Repayment must commence when the loan recipient completes, withdraws from or otherwise fails to continue medical education.

**C.** Any loan recipient requesting forgiveness or an interest rate reduction under this section, excluding veterinarians, shall report annually to the Department of Human Services, Office of Rural Health the following:

(1) The number of Medicaid patients served by the loan recipient and the percentage of the loan recipient's overall service provided to Medicaid patients;

(2) The number of instances in which a loan recipient accepted a Medicare assignment and the number of and basis for any rejections during the period of the report; and

(3) The amount of time devoted by the loan recipient to practice in a public health clinic during the period of the report.

The Department of Human Services, Office of Rural Health and the Finance Authority of Maine shall determine whether the level of service provided by the loan recipient to Medicaid and Medicare patients and in public health clinics was reasonable. If the Office of Rural Health and the Finance Authority of Maine determine that the level of service provided was not reasonable or if the loan recipient fails to provide the report by the date required, the loan recipient is not entitled to any loan forgiveness or interest rate reduction under this section for the year of the report.

**6. Deferments.** Deferments may be granted for causes established by rule of the authority. Interest at a rate to be determined by rule of the authority must be assessed during the deferment. The student's total debt to the authority, including principal and interest, must be repaid either through return service or cash payments. The chief executive officer shall make determinations of

deferment on a case-by-case basis. The decision of the chief executive officer is final.

### **§12105. Nonlapsing fund**

**1. Fund created.** A nonlapsing, interest-earning, revolving fund under the jurisdiction of the authority is created to carry out the purposes of this chapter. Any unexpended balance in the fund carries over for continued use under this chapter. The authority may receive, invest and expend, on behalf of the fund, money from gifts, grants, bequests and donations, in addition to money appropriated or allocated by the State. Loan repayments under this chapter or other repayments to the authority must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for the designated purpose; interest income may be used for the designated purpose or to pay student financial assistance administrative costs incurred by the authority.

**2. Separate account authorized.** The authority may divide the fund into separate accounts it determines necessary or convenient for implementing this chapter, including, but not limited to, accounts reserved for the purchase of positions and accounts reserved for loans.

**3. Allocation of repayments.** The authority may allocate a portion of the annual loan repayments for the purpose of recruiting primary health care physicians for designated health professional shortage areas. That portion may be used:

A. To generate additional matching funds for recruitment of physicians for designated health professional shortage areas; or

B. In accordance with criteria established by the authority, to encourage primary health care physicians to practice medicine in health professional shortage areas.

### **§12106. Advisory Committee on Medical Education**

**1. Committee.** The Advisory Committee on Medical Education, established pursuant to Title 5, section 12004-I, subsection 7, shall assist the chief executive officer in evaluating and improving the programs established by this chapter.

**2. Members.** The Advisory Committee on Medical Education consists of the following 21 members:

A. Ten members appointed by the chief executive officer and subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters. Of these members:

(1) One must be a representative of a major statewide agency representing allopathic physicians;

(2) One must be a representative of a major statewide agency representing osteopathic physicians;

(3) One must be a representative of a major statewide agency representing family physicians;

(4) One must be a member of the major statewide agency representing hospitals;

(5) One must be a representative of the major statewide agency representing community health centers;

(6) One must be a representative of a non-profit hospital medical services organization;

(7) One must be a representative of an association of commercial health insurance companies doing business in the State;

(8) One must be a representative of a statewide area health education center program; and

(9) Two must be at-large members;

B. The Commissioner of Human Services or the commissioner's designee;

C. The Executive Director of the Maine Health Care Finance Commission or the executive director's designee;

D. Three at-large members from areas of the State lacking reasonable access to health care: one appointed by the Governor; one appointed by the President of the Senate; and one appointed by the Speaker of the House of Representatives, all of whom are subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters; and

E. Six nonvoting members to be appointed by the chief executive officer and subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters. These members must include:

(1) A chief executive of a family practice residency in the State;

(2) A representative of an institution of allopathic medical education at which the authority secures positions for students;

(3) A representative of an institution of osteopathic medical education at which the authority secures positions for students;

(4) A Maine student who has obtained a position secured by the authority at an institution of allopathic medical education;

(5) A Maine student who has obtained a position secured by the authority at an institution of osteopathic medical education;

(6) A representative of a major teaching hospital in the State.

**3. Vacancies.** In the case of vacancies or resignations, appointments must be made as for a new member to fill the vacancies until the expiration of the terms.

**4. Terms.** The terms of office for all appointees is 2 years.

#### **§12107. Rules**

The authority shall establish rules necessary to implement this chapter. The Commissioner of Human Services shall develop rules for determining health professional shortage areas for the practice of primary health care medicine and dentistry, for determining the reasonableness of the service provided by loan recipients to Medicaid and Medicare patients and participation by loan recipients in public health clinics, for determining underserved groups and for determining underserved specialties. The Commissioner of Agriculture, Food and Rural Resources shall develop rules for the determination of insufficient veterinary services. The rules authorized by this section must be adopted in accordance with Title 5, chapter 375, subchapter II.

**Sec. 5. 22 MRSA §396-E, sub-§1, ¶C,** as amended by PL 1991, c. 545, §3, is further amended to read:

C. Except as provided in paragraph I, gifts Gifts and grants from federal, state and local governmental agencies are considered available resources.

**Sec. 6. 22 MRSA §396-E, sub-§1, ¶I,** as enacted by PL 1991, c. 545, §4, is repealed.

**Sec. 7. 22 MRSA §396-F, sub-§3,** as enacted by PL 1983, c. 579, §10, is amended to read:

**3. Differentials.** The commission shall provide for revenue deductions which that reflect differentials established and approved pursuant to section 396-G. In calculating revenue deductions to reflect differentials under the Medicare program, the commission shall exclude from its determination any amounts that the commission finds have been paid by the Medicare program for the follow-

ing activities, to the extent that the activities have been approved under section 396-R, unless any costs of the activities have been added to a hospital's financial requirements:

A. The expansion of a family practice residency program after June 30, 1992; and

B. The provision of spaces in a residency program in internal medicine, pediatrics or obstetrics and gynecology, in any given year, for the number of first-year residents that is greater than the number of first-year residents in that program at the same hospital prior to June 30, 1992.

**Sec. 8. 22 MRSA §396-R** is enacted to read:

#### **§396-R. Approval of primary care resident spaces**

The commission, after seeking advice from the Advisory Committee on Medical Education described in Title 20-A, section 12106, shall approve the addition of a primary care resident space by a hospital if the commission finds that the additional space is consistent with the comprehensive programs developed by the Finance Authority of Maine under Title 20-A, chapter 424 or, in the absence of any such comprehensive programs, with the orderly development of primary care training and recruitment programs in the State.

See title page for effective date.

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## **CHAPTER 831**

### **H.P. 1719 - L.D. 2404**

#### **An Act to Assist the State's Shellfish Industry**

**Emergency preamble.** **Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** this Act must take effect immediately in order to be in effect for this year's shellfish harvesting season; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 12 MRSA §6671, sub-§3-A, ¶A,** as enacted by PL 1989, c. 257, §§4 and 5, is amended to read: