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

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1992

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

SECOND REGULAR SESSION

of the

ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 859

S.P. 169 - L.D. 403

An Act to Enhance Medical and Social Services for Maine's Long-term Care Consumers

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

Sec. 1. 23 MRSA §4209, sub-§3, ¶A-2 is enacted to read:

A-2. In consultation with the Bureau of Insurance, advise transportation providers regarding the liability of volunteer drivers;

Sec. 2. Home equity conversion report. The Maine State Housing Authority shall study the home equity conversion program, which is jointly administered by the Department of Human Services, Bureau of Elder and Adult Services and the Maine State Housing Authority, and shall submit a report to the joint standing committee of the Legislature having jurisdicition over human resource matters by February 1, 1993. A copy of the report must be sent to the Office of the Executive Director of the Legislative Council. The report must present program statistics and an analysis of the program's success, along with any recommended legislation.

See title page for effective date.

CHAPTER 860

H.P. 508 - L.D. 702

An Act Regarding the Relocation of Utility Facilities as a Result of State Highway Construction

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

Sec. 1. 23 MRSA §256 is enacted to read:

§256. Financial assistance program for utilities

The department shall develop a program whereby financial assistance may be provided to any utility as defined in section 255 that experiences serious financial hardship as a result of being required to move or relocate its facilities in or from any way because of department construction needs in building, relocating, widening or otherwise performing work on or with respect to any state highway.

Sec. 2. Department of Transportation report. The Department of Transportation shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters on or before December 1, 1992 with a program as set out in section 1 and any necessary legislation to implement the program. The report must identify the utilities to which the program may apply, circumstances under which financial assistance may be granted and the estimated cost of the program.

See title page for effective date.

CHAPTER 861

H.P. 507 - L.D. 701

An Act to Provide More Affordable Health Insurance for Small Businesses and Community Rating of Health Insurance Providers

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

Sec. 1. 24 MRSA §2327-A, as enacted by PL 1989, c. 422, §1, is amended to read:

§2327-A. Rating practices in group health insurance

Title 24-A, ~~section~~ sections 2808-A and 2808-B, ~~shall~~ apply to nonprofit hospital corporations, nonprofit medical service corporations and nonprofit health care plans to the extent not inconsistent with this chapter.

Sec. 2. 24-A MRSA §2808-B is enacted to read:

§2808-B. Small group health plans

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carrier" means any insurance company, nonprofit hospital and medical service organization or health maintenance organization authorized to issue small group health plans in this State. For the purposes of this section, carriers that are affiliated companies or that are eligible to file consolidated tax returns are treated as one carrier and any restrictions or limitations imposed by this section apply as if all small group health plans delivered or issued for delivery in this State by affiliated carriers were issued by one carrier. For purposes of this section, health maintenance organizations are treated as separate organizations from affiliated insurance companies and nonprofit hospital and medical service organizations.

B. "Community rate" means the rate to be charged to all eligible groups for small group health plans prior to any adjustments pursuant to subsection 2, paragraphs C and D.

C. "Eligible employee" means an employee who works on a full-time basis, with a normal work week of 30 hours or more. "Eligible employee" includes a sole proprietor, a partner of a partnership or an independent contractor, but does not include employees who work on a part-time, temporary or substitute basis.

D. "Eligible group" means any person, firm, corporation, partnership, association or subgroup engaged actively in a business that during at least 50% of its working days in the preceding calendar quarter employed fewer than 25 eligible employees, the majority of whom are employed within the State. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation are considered one employer. In the calculation of carrier percentage participation requirements, eligible employees and their dependents who have existing health care coverage may not be considered in the calculation.

E. "Late enrollee" means an eligible employee or dependent who requests enrollment in a small group health plan following the initial minimum 30-day enrollment period provided under the terms of the plan, except that, an eligible employee or dependent is not considered a late enrollee if the eligible employee or dependent meets the requirements of section 2849-B, subsection 3, paragraph A or B.

F. "Premium rate" means the rate charged to an eligible group or eligible individual for a small group health plan.

G. "Small group health plan" means any hospital and medical expense-incurred policy; health, hospital or medical service corporation plan contract; or health maintenance organization subscriber contract covering an eligible group. "Small group health plan" does not include the following types of insurance:

(1) Accident;

(2) Credit;

(3) Disability;

(4) Long-term care or nursing home care;

(5) Medicare supplement;

(6) Specified disease;

(7) Dental or vision;

(8) Coverage issued as a supplement to liability insurance;

(9) Workers' compensation;

(10) Automobile medical payment; or

(11) Insurance under which benefits are payable with or without regard to fault and that is required statutorily to be contained in any liability insurance policy or equivalent self-insurance.

H. "Subgroup" means an employer with fewer than 25 employees within an association or a multiple employer trust or any similar subdivision of a larger group covered by a single group health policy or contract.

2. Rating practices. The following requirements apply to the rating practices of carriers providing small group health plans.

A. A carrier issuing a small group health plan after the effective date of this section must file the carrier's community rate and any formulas and factors used to adjust that rate with the superintendent for informational purposes prior to issuance of any small group health plan.

B. A carrier may not vary the premium rate due to the health status, claims experience or policy duration of the eligible group.

C. A carrier may vary the premium rate due to family status, smoking status, participation in wellness programs and group size.

D. A carrier may vary the premium rate due to age, gender, occupation or industry, and geographic area only under the following schedule and within the listed percentage bands:

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for de-

livery, continued or renewed in this State between July 15, 1995 and July 14, 1996, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1996 and July 14, 1997, the premium rate may not deviate above or below the community rate filed by the carrier by more than 10%.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 15, 1997, the premium rate may not deviate from the community rate filed by the carrier.

Unless continued or modified by law, this paragraph is repealed on July 15, 1994.

E. The superintendent may exempt from the requirements of this subsection an association group organized pursuant to section 2805-A or a trustee group organized pursuant to section 2806 that offers a small group health plan that complies with the premium rate requirements of this subsection and guarantees issuance and renewal to all persons and their dependents within the association or trustee group.

3. Coverage for late enrollees. In providing coverage to late enrollees, small group health plan carriers are allowed to exclude a late enrollee for 18 months or provide coverage subject to an 18-month preexisting conditions exclusion.

4. Guaranteed issuance and guaranteed renewal. Carriers providing small group health plans must meet the following requirements on issuance and renewal.

A. Coverage must be guaranteed to all eligible groups that meet the carrier's minimum participation requirements, which may not exceed 75%, to all eligible employees and their dependents in those groups.

B. Renewal must be guaranteed to all eligible groups, to all eligible employees and their dependents in those groups except:

(1) For nonpayment of the required premiums by the policyholder, contract holder or employer;

(2) For fraud or material misrepresentation by the policyholder, contract holder or employer or;

(3) With respect to coverage of eligible individuals, for fraud or material misrepresentation on the part of the individual or the individual's representative;

(4) For noncompliance with the carrier's minimum participation requirements, which may not exceed 75%; and

(5) When the carrier ceases providing small group health plans in compliance with subsection 5.

5. Cessation of business. Carriers that provide small group health plans after the effective date of this section that plan to cease doing business in the small group health plan market must comply with the following requirements.

A. Notice of the decision to cease doing business in that market must be provided to the bureau and to the policyholder or contract holder 6 months prior to nonrenewal.

B. Carriers that cease to write new business in that market continue to be governed by this section with respect to business conducted under this section.

C. Carriers that cease to write new business in that market are prohibited from writing new business in that market for a period of 5 years from the date of notice to the superintendent.

6. Fair marketing standards. Carriers providing small group health plans must meet the following standards of fair marketing.

A. Each carrier must actively market small group health plan coverage to eligible groups in this State.

B. A carrier or representative of the carrier may not directly or indirectly engage in the following activities:

(1) Encouraging or directing eligible groups to refrain from filing an application for coverage with the carrier because of any of the rating factors listed in subsection 2; and

(2) Encouraging or directing eligible groups to seek coverage from another carrier because of any of the rating factors listed in subsection 2.

C. A carrier may not directly or indirectly enter into any contract, agreement or arrangement with a representative of the carrier that provides for or results in the compensation paid to the representative for the sale of a small group health plan to be

varied because of the rating factors listed in subsection 2. A carrier may enter into a compensation arrangement that provides compensation to a representative of the carrier on the basis of percentage of premium, provided that the percentage does not vary because of the rating factors listed in subsection 2.

D. A carrier may not terminate, fail to renew or limit its contract or agreement of representation with a representative for any reason related to the rating factors listed in subsection 2.

E. A carrier or representative of the carrier may not induce or otherwise encourage an eligible group to separate or otherwise exclude an employee from small group health plan coverage or benefits.

F. Denial by a carrier of an application for coverage from an eligible group must be in writing and must state the reason or reasons for the denial.

G. The superintendent may establish rules setting forth additional standards to provide for the fair marketing and broad availability of small group health plans in this State.

H. A violation of this section by a carrier or a representative of the carrier is an unfair trade practice under chapter 23. If a carrier enters into a contract, agreement or other arrangement with a 3rd-party administrator to provide administrative, marketing or other services related to the offering of small group health plans in this State, the 3rd-party administrator is subject to this section as if it were a carrier.

7. Applicability. This section applies to all policies, plans, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 15, 1993. For purposes of this section, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

8. Standardized plans. The superintendent shall by rule define 2 standardized small group health plans that must be offered by all carriers offering small group health plans in the State. An association group organized pursuant to section 2805-A or a trustee group organized pursuant to section 2806 may offer one or both plans to its subgroups. The plans must consist of a standard plan and a basic plan. Both plans must meet the requirements for mandated coverage for specific health services, specific diseases and for certain providers of health services under Title 24 and this Title applicable to small group health plans. As used in this subsection:

A. "Standard plan" means a plan that is similar to those plans typically sold to small employers; and

B. "Basic plan" means a plan that emphasizes preventative care and that contains reasonable but lesser benefits than the standard plan to the extent necessary to reduce the anticipated cost of the plan by 20%.

The premium rate charged by a carrier for the basic plan may not exceed 80% of the corresponding premium rate charged by that carrier for the standard plan.

Sec. 3. 24-A MRSA §4222, sub-§4 is enacted to read:

4. Section 2808-B applies to health maintenance organizations except that a health maintenance organization is not required to offer coverage or accept applications from an eligible group located outside the health maintenance organization's approved service area.

Sec. 4. Effective date. The portions of this Act that amend the Maine Revised Statutes, Title 24, section 2327-A and enact Title 24-A, section 4222, subsection 4 take effect on July 15, 1993.

Sec. 5 Report. The Bureau of Insurance shall report to the joint standing committee of the Legislature having jurisdiction over insurance matters on or before January 1, 1993, on the following issues:

1. Standard and basic health insurance plans that include health insurance mandates;

2. Guaranteed issuance and renewability of health insurance and their applicability with and without standardized plans;

3. Data collection regarding health insurance coverage and employer practices for employers of fewer than 25 employees and the self-employed;

4. Wellness programs designed for introduction at places of employment, their usage and effect, any use being made of them in rating by carriers and a definition for them for statutory enactment; and

5. Alternative models for risk sharing in the issuance of small group health plans. In developing alternative models, the Bureau of Insurance shall consult with insurers, nonprofit hospital and medical service organizations, representatives of businesses and consumer groups and other interested parties. The alternative models must include provisions allowing carriers to determine whether they will or will not participate in the risk-sharing mechanism and must be based on the principle that the carriers that participate in the risk-sharing mechanism bear the costs for the obligations of the risk-sharing mechanism.

Sec. 6. Additional report. The Bureau of Insurance shall report to the joint standing committee of

the Legislature having jurisdiction over insurance matters by January 30, 1994 on the effects of the rating provisions of the Maine Revised Statutes, Title 24-A, section 2808-B and on data and experience from other states with community rating statutes.

Sec. 7. 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	
All Other	$75,000
Provides funds for consulting services to assist the Bureau of Insurance with a report on several health insurance issues and for the costs associated with rulemaking.	

See title page for effective date, unless otherwise indicated.

CHAPTER 862

S.P. 820 - L.D. 2019

An Act to Amend the Election Laws

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

Sec. 1. 21-A MRSA §103, sub-§1, as amended by PL 1991, c. 466, §2, is further amended to read:

1. Population of 5,000 or over. In a city or town that has a population of 5,000 or over, a board of registration consisting of 3 members must be appointed as follows: ~~One member nominated by the~~ The municipal committee of each of the major political parties shall nominate one member, who must be enrolled in the party of the municipal committee that nominates the member, and ~~appointed by~~ the municipal officers shall appoint the persons nominated by the municipal committees; and the 3rd member must be nominated by the clerk of the municipality and appointed by the municipal officers. The clerk of the municipality may give the municipal committees of the political parties a list of qualifications necessary for a person to fulfill the duties of the board of registration, and the municipal committees shall take those qualifications into consideration when nominating members to the board. The 2 members of the board nominated by the municipal committees of the major political parties may be members of the political committee nominating them and of the county or state committees of the political party that nominates them and may be members of a state or county delegation to a political convention. When a municipal committee nominates a member to the board of registration, it shall also nominate an alternate board member, who shall serve if the member nominated by the municipal committee is or becomes unable to serve.

Sec. 2. 21-A MRSA §103, sub-§8, as enacted by PL 1991, c. 466, §3, is amended to read:

8. Removal from office. A member of the board may be removed from office at any time during the member's term by the appointing authority if the appropriate nominating authority nominates a replacement. The replacement nominee shall serve out the remainder of the replaced member's term.

Sec. 3. 21-A MRSA §303, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Declaration of intent. ~~A voter or group of~~ Ten or more voters who are not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party; and

B. The ~~name and address~~ names, addresses and telephone numbers of the ~~voter or one of the group of~~ voters who file the declaration of intent.

Sec. 4. 21-A MRSA §606, sub-§3-A, ¶A is enacted to read:

A. The clerk shall notify the chairs of each political party of the municipality, in writing, of the time and place the test ballots will be tested as required in section 854. If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party.

Sec. 5. 21-A MRSA §621, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

The Secretary of State shall send the warrants to the municipal clerk, who shall present them to the municipal officers. The municipal officers of each municipality shall announce an election as follows.

Sec. 6. 21-A MRSA §753, sub-§3-A, as enacted by PL 1987, c. 62, §2, is amended to read:

3-A. Alternate method of balloting by residents of licensed nursing homes, licensed boarding homes or certified congregate housing units. The municipal clerk