

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

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PUBLISHED BY THE REVISOR OF STATUTES  
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TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1993

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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qualifications are at least those specified in this subsection. Any person who meets these conditions is considered to have the credentials and skill demonstrations necessary for the ambulance attendant level of licensure to provide basic emergency medical treatment.

A. The person must have completed successfully the United States Department of Transportation course for first responders, with supplemental training specified in rules adopted by the board pursuant to the Maine Administrative Procedure Act, or completed successfully the American Red Cross Advanced First Aid and Emergency Care Course, with supplemental training specified in rules adopted by the board pursuant to the Maine Administrative Procedure Act.

B. The person must have successfully completed the American Heart Association basic rescuer course in cardiopulmonary resuscitation or its American Red Cross equivalent.

C. The person must have successfully completed a state written and practical test for basic emergency medical treatment.

D. The person must be sponsored by a Maine licensed ambulance service or first responder service.

~~For those individuals who are licensed or who relicense after September 1, 1986, the license is for a 3-year period.~~

**Sec. 2. 32 MRSA §85, sub-§4**, as enacted by PL 1991, c. 742, §3, is amended to read:

**4. Minimum requirements for relicensing.** The board shall set by rule the ~~interval~~ license and relicensing requirements ~~and the relicensing interval~~ for emergency medical services persons. A person who is duly licensed in Maine as an emergency medical services person must be issued a renewal license if the following requirements are met:

A. The person must have satisfactorily completed relicensure training as defined in the rules; and

B. The person must have satisfactorily demonstrated competence in the skills required for the license level. Skill competence may be satisfied by a combination of run report reviews and continuing education training programs conducted in accordance with the rules or by satisfactorily completing the state written and practical tests.

If the person is not duly licensed at the time of application, the person must demonstrate skill and knowledge ~~by satisfactorily completing the state written and practical tests~~ as defined in the rules.

To maintain a valid license, an emergency medical services person must meet the criteria set out in this section. If those criteria are not met, a person does not hold a valid license and must reapply for licensure.

**Sec. 3. 32 MRSA §86, sub-§2-A, ¶A**, as amended by PL 1991, c. 588, §14, is further amended to read:

A. When a patient is already under the supervision of a personal physician or ~~of a physician's assistant or nurse practitioner~~ supervised by that physician and the physician ~~or~~, physician's assistant ~~or nurse practitioner~~ assumes the care of the patient, then for as long as the physician ~~or~~, physician's assistant ~~or nurse practitioner~~ remains with the patient, the patient ~~shall~~ **must** be cared for as the physician ~~or~~, physician's assistant ~~or nurse practitioner~~ directs. The emergency medical services persons shall assist to the extent that their licenses and protocol allow; and

See title page for effective date.

## CHAPTER 153

S.P. 273 - L.D. 837

### An Act to Change or Clarify Language in the Maine Insurance Code Relative to Procurement of Surplus Lines Insurance and Pertaining to Licensing Procedures in Order to Provide for a More Efficient Regulatory System

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

**Sec. 1. 24-A MRSA §601, sub-§5, ¶E**, as amended by PL 1991, c. 334, §5, is further amended to read:

- E. Issuance fee for original nonresident agent license \$50;
- Appointment of such agent, each insurer \$50; and
- Biennial continuation of appointment, each insurer \$50.;

**Sec. 2. 24-A MRSA §601, sub-§5, ¶¶F and G** are enacted to read:

- F. Issuance fee for resident agent organization license \$50;
- Biennial renewal fee \$50; and

G. Issuance fee for nonresident agent organization license \$50;

Biennial renewal fee \$50.

**Sec. 3. 24-A MRSA §601, sub-§6, ¶C**, as amended by PL 1991, c. 334, §5, is further amended to read:

C. Issuance fee for original surplus lines broker license \$150; ~~and~~

Biennial continuation \$150.;

**Sec. 4. 24-A MRSA §601, sub-§6, ¶¶D and E** are enacted to read:

D. Issuance fee for resident broker organization license \$70;

Biennial renewal fee \$70; and

E. Issuance fee for nonresident broker organization fee \$150;

Biennial renewal fee \$150.

**Sec. 5. 24-A MRSA §601, sub-§7, ¶B**, as amended by PL 1991, c. 334, §5, is further amended to read:

B. Nonresident consultant, application for original license and issuance, if issued \$100; ~~and~~

Biennial continuation \$100.;

**Sec. 6. 24-A MRSA §601, sub-§7, ¶¶C and D** are enacted to read:

C. Issuance fee for resident consultant organization license \$50;

Biennial renewal fee \$50; and

D. Issuance fee for nonresident consultant organization license \$100;

Biennial renewal fee \$100.

**Sec. 7. 24-A MRSA §601, sub-§8, ¶¶B and C**, as amended by PL 1991, c. 334, §5, are further amended to read:

B. Issuance fee for original nonresident adjuster license \$40;

Biennial continuation \$40; ~~and~~

C. Temporary license \$5.;

**Sec. 8. 24-A MRSA §601, sub-§8, ¶¶D and E** are enacted to read:

D. Issuance fee for resident adjuster organization license \$20;

Biennial renewal fee \$20; and

E. Issuance fee for nonresident adjuster organization license \$40;

Biennial renewal fee \$40.

**Sec. 9. 24-A MRSA §1510**, as enacted by PL 1969, c. 132, §1, is amended to read:

**§1510. "Organization" defined**

For the purposes of this chapter an "organization" is a ~~partnership or a corporation~~ or a firm as defined in section 1517.

**Sec. 10. 24-A MRSA §1517, sub-§1**, as amended by PL 1973, c. 585, §12, is further amended to read:

1. A firm or corporation ~~shall~~ must be licensed only as an agent, broker, adjuster or consultant. A firm includes 2 or more individuals, whether formally organized or not, who operate an insurance business together and advertise under a business name, and includes any individual licensee who operates an insurance business under any name other than the individual's own name. Each general partner of a firm ~~or corporation~~ must be registered with the superintendent, and each other individual to act who acts for the firm or corporation under the license, shall must be named in or registered with the superintendent as to the license, and shall qualify as though an individual licensee. Such an individual shall exercise the firm's or corporation's license powers only for and in the name of the organization, but this ~~shall~~ does not prevent such the individual from at the same time being separately licensed and acting in his the individual's own behalf and name. A full additional The firm or corporation license fee shall be paid as to each respective individual in excess of one named in or registered as to the issued by the superintendent is known as an agent, broker, adjuster or consultant organization license. A firm's or corporation's application for license must be accompanied by the fee for such application as specified in section 601.

**Sec. 11. 24-A MRSA §1521**, as amended by PL 1973, c. 625, §138, is further amended to read:

**§1521. Exemption from examination requirement**

Section 1520 ~~shall~~ does not apply and no such an examination shall be is not required of:

1. An applicant for license covering the same kind or kinds of insurance ~~as to for~~ which the applicant was licensed under a similar license in this State, other than a temporary license ~~or initial license as a life agent~~ issued pursuant to section 1536, within ~~2 years~~ one year next preceding the date of application for the license, provided that the licensee has met the applicable continuing education requirements during the period, unless such the previous license was revoked, suspended or continuation thereof of the license was refused by the superintendent, and if the superintendent deems considers the applicant to be fully qualified for the license. For the purposes of this subsection, an agent's license covering fire insurance and existing on January 1, 1970 ~~shall be deemed to be~~ is the equivalent of a license covering "property" insurance as defined in this Title;

2. An applicant for an agent's license who is currently licensed as a broker or as a consultant ~~as to for~~ the same kind or kinds of insurance, or has been so licensed within 12 months next preceding the date of application for the license, provided that the licensee has met the applicable continuing education requirements during that period, unless such the previous license was revoked or suspended or continuation thereof of the license was refused by the superintendent;

3. Applicants for limited license under section 1531, subsection 1, paragraph B, who solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property, and as to insurance so transacted; or

4. Applicants for license as title insurance agent; who are attorneys at law duly licensed to practice law in this State.

**Sec. 12. 24-A MRSA §1523, sub-§2,** as repealed and replaced by PL 1977, c. 260, is amended to read:

2. The superintendent shall make examinations available to applicants at least once a month ~~in Augusta~~ at convenient locations within the State.

**Sec. 13. 24-A MRSA §1523, sub-§3,** as enacted by PL 1969, c. 132, §1, is amended to read:

3. All the kinds of insurance and annuity business the applicant proposes to transact under the license applied for ~~shall must~~ be included in the same examination, except as provided in section 1520, subsections 3 and 4, as to applicants for license ~~as to for~~ both life insurance and general lines, ~~and as to variable annuities.~~

**Sec. 14. 24-A MRSA §1532-A,** as amended by PL 1989, c. 878, Pt. A, §66, is further amended to read:

**§1532-A. License continuation or termination**

1. Each resident broker, resident or nonresident, consultant, adjuster, broker organization, consultant organization or adjuster organization license issued under this Title ~~shall continue~~ continues in force until 12:01 a.m. on ~~January~~ October 1st of the biennium for which it ~~was issued~~ even-numbered years, unless prior thereto it ~~has been to that date the license was suspended, revoked or otherwise terminated.~~

2. Each nonresident broker, consultant, adjuster, broker organization, consultant organization or adjuster organization license issued under this Title ~~shall continue~~ continues in force until 12:01 a.m. on ~~March~~ January 1st of the biennium for which it ~~was issued~~ even-numbered years, unless prior thereto it ~~has been to that date the license was suspended, revoked or otherwise terminated.~~

~~3. Each adjuster license issued under this Title shall continue in force until 12:01 a.m. on January 1st of the biennium for which it was issued, unless prior thereto it has been suspended, revoked or otherwise terminated.~~

4. The superintendent shall notify each broker, consultant ~~and~~, adjuster, broker organization, consultant organization or adjuster organization licensed under this Title of the expiration date of the licensee's license and the fee that is required for renewal for a 2-year period. The notice ~~shall must~~ be mailed to that person at least 30 days in advance of the expiration date of the license at the person's last-known address.

5. Any broker, consultant ~~or~~, adjuster ~~may~~, broker organization, consultant organization or adjuster organization must apply to renew a license issued under this chapter by written request and payment to the superintendent of the applicable renewal fee as stated in section 601. As a condition of or in connection with the renewal of any ~~broker, consultant or adjuster~~ such license, the superintendent may require the licensee to file with the superintendent information regarding application for the license or the use made of the license during the current or next preceding license year. At the same time the broker organization, consultant organization or adjuster organization makes a request for renewal, that organization must forward to the superintendent a current list of its members, director and officers and other individuals to be registered with the superintendent as to the license.

Upon the filing of the information required by this subsection and subject to continuing education requirements established under subchapter VI, the superintendent shall issue a renewal license for the ensuing biennium, unless, following a hearing, the superintendent determines that any reason or condition exists which is specified in section 1539 for the suspension or revocation of a license. If the broker, consultant, adjuster, broker organization, consultant organization or adjuster organization does not file a written request and pay the fee by the renewal

date, the license is not renewed and notice of the nonrenewal need not be given by the superintendent to the former licensee.

7. ~~An Resident agent license, other than an initial license, shall continue in force and resident agent organization licenses are valid until 12:01 a.m. on April October 1st of the biennium for which it was issued even-numbered years, unless prior thereto it has been to that date the license was suspended, revoked or otherwise terminated, while there is in effect as to the license, as shown by the superintendent's records, an appointment or appointments as agent of authorized insurers covering collectively all the kinds of insurance included in the agent's license. Nonresident agent and nonresident agent organization licenses are valid until 12:01 a.m. on February 1st of odd-numbered years unless before that date the license was suspended, revoked or otherwise terminated, while there is in effect as to the license, as shown by the superintendent's records, an appointment or appointments of an agent or agents of authorized insurers that collectively cover all the kinds of insurance included in the agent's license. Upon termination of all the licensee's agency appointments, as to a particular kind of insurance, and failure to replace those appointments within 60 days thereafter, the license shall thereupon expire and terminates as to those kinds of insurance and the licensee shall promptly deliver his the license to the superintendent for reissuance, without fee or charge, as to these kinds of insurance, if any, covered by the remaining agency appointments. Upon termination of all the licensee's agent appointments, the license shall immediately terminate terminates.~~

8. Each agent license issued under this Title ~~which~~ that terminates on its expiration date, subject to the continuing education requirements under subchapter VI, ~~shall~~ must be automatically renewed for a further 2-year period, unless, following a hearing, the superintendent determines that any reason or condition exists ~~which~~ that is specified in section 1539 for the suspension or revocation of a license.

As conditions of or in connection with the renewal of any agent license, the superintendent may require the licensee to file with ~~him~~ the superintendent information as for application for the license; or as to the use made of the license during the current or next preceding license term. The superintendent shall forward a notice of renewal to each licensee; whose ~~agents~~ agent's license is automatically renewed, ~~a notice of renewal.~~

**Sec. 15. 24-A MRSA §2002**, as amended by PL 1987, c. 769, Pt. A, §92, is repealed.

**Sec. 16. 24-A MRSA §2002-A** is enacted to read:

**§2002-A. Exemptions from provisions**

1. The following kinds of insurance must be procured from authorized insurers and are not eligible for export in the surplus lines market:

- A. Life insurance;
- B. Health insurance; or
- C. Employee benefit excess insurance.

2. This surplus lines law may not be used to place reinsurance. Nothing in this subsection prohibits the cession or assumption of reinsurance as otherwise permitted by this Title.

3. Surplus lines brokers may procure the following kinds of insurance from eligible surplus lines insurers without adherence to the procedures set forth in section 2004:

- A. Wet marine and transportation insurance;
- B. Insurance on subjects located, resident or to be performed wholly outside of this State, or on vehicles or aircraft owned and principally garaged outside this State;
- C. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations; or
- D. Insurance on aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight, or cargo of such aircraft, or against liability other than workers' compensation and employer's liability arising out of the ownership, maintenance or use of such aircraft.

**Sec. 17. 24-A MRSA §2020** is enacted to read:

**§2020. Surplus lines broker bond**

1. Every applicant for a surplus lines broker's license shall file with the superintendent evidence of a bond in favor of the State executed by an authorized surety insurer. The bond is conditioned upon full accounting and due payment to the person entitled to the bond of funds coming into the surplus lines broker's possession through insurance transactions under the license. The bond may be continuous in force and aggregate liability on the bond is limited to payment of not less than \$2,500.

2. The bond must remain in force until released by the superintendent or until canceled by the surety. Without prejudice to liability previously incurred, the surety may cancel the bond upon 30 days' advance written notice to both the broker and the superintendent. Upon notice to the superintendent of cancellation by the

surety and failure of the surplus lines broker to procure a satisfactory replacement bond prior to cancellation, the surplus lines broker's license terminates.

See title page for effective date.

## CHAPTER 154

S.P. 337 - L.D. 1011

### An Act to Amend the Medicare Supplement Insurance Regulatory Program

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

**Whereas,** federal law required the states to adopt the National Association of Insurance Commissioners' Medicare supplemental insurance minimum standards model act and rule prior to July 30, 1992; and

**Whereas,** immediate action is necessary to ensure that the State adopts those revisions required by the Health Care Financing Administration to prevent federal preemption of its Medicare supplemental insurance regulatory program; 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. 24-A MRSA §5001, sub-§4,** as amended by PL 1991, c. 740, §1, is further amended to read:

**4. Medicare supplement policy.** "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of a nonprofit hospital or medical service organization or nonprofit health care plan or health maintenance organization other than a policy issued pursuant to a contract under the federal Social Security Act, 42 United States Code, Section 1395, et seq., Section 1876 1833 or Section 1833 1876 or an issued policy under a demonstration project authorized pursuant to amendments to the federal Social Security Act, which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.

**Sec. 2. 24-A MRSA §5002-A, sub-§2,** as enacted by PL 1991, c. 740, §4, is amended to read:

**2. Standardization.** The superintendent may adopt rules specifying the minimum Medicare supplement contract benefits required in the State and the optional new and innovative benefits available for sale in the State. All other benefits or options are prohibited in a Medicare supplement contract subject to this chapter.

**Sec. 3. 24-A MRSA §5010, sub-§§2 and 3,** as enacted by PL 1991, c. 740, §13, are amended to read:

**2. Insured's right to replace coverage.** Insureds under Medicare supplement policies issued prior to January 1, 1992 ~~must~~ shall be permitted at any time to replace their coverage with any of the standardized plans offered by the same insurer, subject to the following conditions.

A. The insurer may decline to issue a particular standardized plan to an existing insured if:

(1) The standardized plan includes coverage of prescription drugs greater than that in the plan being replaced; and

(2) The insured does not otherwise qualify for the standardized plan.

B. If the standardized plan is rated on the basis of age at issue, the issuer shall use the insured's age at the time of issue of the prior policy.

C. The insurer shall provide at each policy anniversary, and at the time of any rate increase, a notice describing the standardized plans which are available and the rates for those plans.

**3. Mandatory replacement.** Prior to October 1, 1992, all issuers shall submit to the superintendent a copy of each Medicare supplement policy form for which policies issued prior to January 1, 1992 are in force in Maine and a list of standardized plans offered on the effective date of this section. The issuer shall designate the standardized plan, if any, that has substantially similar benefits to the policy issued prior to January 1, 1992. For any of the policies that the superintendent determines are substantially similar to one of the offered standardized plans, the issuer shall replace the policy with the similar standardized plan or, at the option of the insured, one of the other standardized plans selected by the insured pursuant to subsection ~~1~~ 2, on or before the first policy anniversary after June 30, 1993.

**Sec. 4. 24-A MRSA §5013, 2nd ¶,** as enacted by PL 1991, c. 740, §13, is amended to read:

This section does not apply to a Medicare supplement policy; a policy issued pursuant to a contract under the Federal Social Security Act, 42 United States Code, Section 1395, et seq., Section 1833 or 1876; a disability