

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

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

ber 31, 1996 must be reported on the next report date required in paragraph C. The insurance company shall annually report on any claims that have remained open;

C. A report of each claim brought made against any physician practicing in a medical specialty area described in section 2972, alleging malpractice as a result of incidents occurring on or after January 1, 1992 and before January 1, 1997, that includes, but is not limited to, the name of the insured, policy number, classification of risk, medical specialty, date of claim and the results of each claim, including defense costs and indemnity payments as a result of settlement or verdict, any awards or amounts paid in excess of policy limits and any finding, if made, of whether the physician's practice was consistent with the parameters and protocols developed and adopted under section 2973. These reports must be provided not less than semiannually according to a schedule established by the Bureau of Insurance; except that reports on open claims must be made not later than June 1, 1997. At the discretion of the Bureau of Insurance, reports must be provided until all claims are closed; and

Sec. 2. 24 MRSA §2978, sub-§2, ¶A, as enacted by PL 1989, c. 931, §4, is amended to read:

A. The Bureau of Insurance shall report:

(1) The number of claims brought against physicians in the project alleging malpractice as a result of incidents occurring on or after January 1, 1992;

(2) The results of any closed claims described in this section, including defense costs and indemnity payments as a result of settlement or verdict;

(3) The status of all open claims described in this section, including defense costs, indemnity payments and any amounts held in reserve in the aggregate by medical specialty area as established under the medical specialty advisory committees' rule-making authority as set forth in section 2972. The bureau may identify data on claims arising from procedures covered by the protocols and those not covered and for claims arising out of services rendered by physicians participating in the project and those not participating. The bureau may comment on the statistical validity and variability of the data except that the superintendent may not report in such a way as to allow the identification of an individual claim reserve; and

(4) The effect of the project on the medical liability claims experience and premiums of those physicians in the project.

Sec. 3. 24 MRSA §2978, sub-§4, as enacted by PL 1989, c. 931, §4, is amended to read:

4. Confidentiality. Reports made to the superintendent and report records kept by the superintendent are not subject to discovery and are not admissible in any trial, civil or criminal, other than proceedings brought before or by the Board of Registration in Medicine or the Board of Osteopathic Examination and Registration. The superintendent shall maintain the reports filed in accordance with this section and all information derived from the reports that identifies or permits identification of the insured or the incident for which a claim was made as strictly confidential records. Information derived from reports filed in accordance with this section that does not identify or permit identification of any insured or incident for which a claim was made may be released by the superintendent or otherwise made available to the public. Open claim reserves reported by insurers under subsection 1 are not subject to discovery and are not admissible in any civil or criminal trial.

See title page for effective date.

CHAPTER 190

H.P. 593 - L.D. 808

An Act to Eliminate the Automatic Issuance of Conditional Withholding Orders

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

Sec. 1. 19 MRSA §777, sub-§1, ¶A, as enacted by PL 1985, c. 652, §50, is amended to read:

A. Whenever an obligation for support of a dependent child or spouse or alimony to a former spouse is determined and ordered by a court of this State pursuant to provisions within this Title or Title 22, that court shall order the withholding of the amount of child or spousal support or alimony, as determined by court order, from the income, regardless of source, of the person obligated to pay the support or alimony. When an order for withholding has not previously been secured, the obligee may move for an order, and the court shall grant the order. Every order of child or spousal support or alimony is deemed to include an order for withholding consistent with the order of sup-

port or alimony contained in the order and consistent with this section. The clerk, upon application, shall issue the order of income withholding.

See title page for effective date.

CHAPTER 191

H.P. 191 - L.D. 254

An Act to Clarify Criteria for Allowing Unlicensed Municipal Solid Waste Landfills to Accept Waste After December 31, 1992

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

Whereas, municipalities are experiencing financial stress associated with landfill closure programs, the remediation of existing landfills and the development of alternative solid waste disposal arrangements; and

Whereas, municipalities need additional time to plan and implement landfill closure programs and establish substitute solid waste disposal arrangements; and

Whereas, sufficient state resources do not exist to reimburse municipalities for the costs of landfill closure and remediation; and

Whereas, municipal budgets are stressed from low tax revenue growth, reductions in state revenue sharing, reductions in state educational aid and federal mandates; 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. 38 MRSA §1310-N, sub-§§6-B and 6-C are enacted to read:

6-B. Unlicensed landfills operating after December 31, 1992. Notwithstanding subsection 6, the commissioner shall enter into an agreement with a municipality allowing that municipality to operate an unlicensed municipal solid waste landfill after December 31, 1992 if the commissioner determines that the municipality has:

A. Selected an alternative solid waste handling or disposal option that is licensed or capable of being licensed;

B. Proposed to the department a reasonable and mutually acceptable schedule for implementing that option; and

C. Agreed to cease accepting waste at the unlicensed landfill on a date certain.

An agreement under this subsection between a municipality and the department may not include any provision that prevents the municipality from using its unlicensed landfill for the disposal of municipal solid waste during the term of the agreement. Notwithstanding any provision of an agreement entered into under this subsection, the commissioner shall order an unlicensed landfill to cease operating if the commissioner finds that continued operation of the landfill poses an immediate hazard to the public health or the environment, including without limitation a threat to a public or private water supply.

6-C. Summary of federal regulations. The commissioner shall provide a summary of the criteria for municipal solid waste landfills set forth in 40 Code of Federal Regulations, Part 258 (1992) to each municipality operating a licensed or unlicensed municipal solid waste landfill on the effective date of this subsection. The summary must describe the operational and, where possible, the economic implications under federal and state rules of accepting waste at a municipal solid waste landfill after October 8, 1993.

Sec. 2. PL 1991, c. 759, §3 is repealed.

Sec. 3. Consolidation plans voided. Any provision in an agreement between a municipality and the Department of Environmental Protection that is in effect on the effective date of this Act and that requires a municipality to enter into a solid waste consolidation management plan as a condition for continued operation of an unlicensed landfill after December 31, 1992 is void.

Sec. 4. Retroactivity. This Act applies retroactively to January 1, 1993.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 2, 1993.

CHAPTER 192

H.P. 476 - L.D. 613

An Act to Shorten the Appeal Procedure for the State Bidding Process and to Provide Consistent Administration of Appeal Hearings