

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

parties and placing any protective orders considered appropriate by the court;

E. Either awarding temporary custody of minor children or establishing temporary visitation rights with regard to minor children when the visitation is determined to be in the best interest of the child, or both;

F. Requiring the defendant to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court considers appropriate;

G. Ordering the payment of temporary support for the dependent party, or any child in the dependent party's custody in accordance with chapter 7, subchapter I-A, or both, when there is a legal obligation to support that person, that child, or both;

H. Ordering the payment of temporary support payments to the State as provided in chapter 7;

I. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded;

J. Ordering the defendant or, if the complaint is dismissed, the plaintiff, to pay court costs or reasonable attorney fees; or

K. Entering any other orders determined necessary or appropriate in the discretion of the court.

If the court enjoins the defendant under this subsection, and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

See title page for effective date.

CHAPTER 476

H.P. 1142 - L.D. 1542

An Act to Encourage Implementation of Total Quality Management Procedures in the Executive Branch of State Government

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

Whereas, State Government exists to provide services to citizens, and it is incumbent on state employees to provide the best service to "customers" of State Government in the most efficient and effective manner possible; and

Whereas, while providing quality service it is important that every state worker have a stake in the success and improvement of State Government to make the most of accrued talent and experience; and

Whereas, both private and public sector organizations have found success in the total quality management approach to customer service and management, resulting in a more motivated and productive work force, as well as efficiencies and cost savings; and

Whereas, pursuant to Resolve 1991, chapter 73, total quality management procedures in State Government must be in place by the beginning of the 1994-95 biennium and need coordination, oversight and direction to accomplish the above goals; 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. 5 MRSA §§49 and 50 are enacted to read:

§49. Maine Quality Management Council

The Maine Quality Management Council, as established by section 12004-I, subsection 77-A and referred to in this section as the "council," is created to guide total quality management in the executive branch of State Government, to promote the delivery of quality services to customers of State Government and to empower state workers in addressing the challenges and responsibilities of State Government.

1. Membership. The Governor is a member of the council and serves as the chair of the council. The Governor shall appoint the following members to the council:

A. Representatives of each executive branch department;

B. Representatives of other departments and agencies of State Government that choose to participate;

C. Representatives of each of the employee unions representing state employees as designated by each union; and

D. Other members the Governor determines appropriate, including representatives of up to 3 private sector businesses engaging in total quality management.

In addition, in consultation with the Governor, the President of the Senate shall appoint one Senator and the Speaker of the House of Representatives shall appoint one member of the House of Representatives.

2. Terms of members. Members serve terms coincident with the terms of the appointments to the positions qualifying them for the council, except that private sector members serve at the pleasure of the Governor.

3. Associate members. Each member of the council shall name one associate member, except that council members representing state employee unions may appoint one associate member to represent each union bargaining unit. Associate members serve at the pleasure of the appointing council member.

4. Meetings. The council shall meet on a monthly basis at the call of the chair. A majority of members constitutes a quorum and decisions of the council must be achieved through consensus.

5. Duties. The council, in accordance with Resolve 1991, chapter 73, shall:

A. Develop a joint vision, values and tenets for State Government;

B. Provide policy guidance and direction to the Governor on the quality management process;

C. Coordinate and oversee implementation of quality management in State Government, including the work of individual quality councils in departments and agencies;

D. Determine guidelines for submission of quality management proposals by state departments and agencies to the council and criteria and procedures for approval of those proposals;

E. Coordinate and oversee process planning teams and process action teams, which may be formed to address specific problems and challenges in State Government;

F. Raise state employee awareness of total quality management in State Government;

G. Assist the Governor in developing goals, objectives, milestones and resource requirements to promote and improve quality and productivity in State Government;

H. Identify processes of State Government that are common to departments and need priority at-

tion, and provide direction for achieving improvement in these processes; and

I. Undertake other responsibilities determined appropriate by the council to implement total quality management in State Government.

§50. Employment protection with implementation of total quality management

The Maine Quality Management Council shall develop procedures that ensure that any employee who has achieved permanent status and whose position is eliminated as a direct result of improvements sanctioned by the council is provided an employment opportunity elsewhere in State Government. The procedures must be consistent with applicable civil service laws and collective bargaining agreements and must take into account such factors as qualifications, comparability of positions, geographic locations of employees whose positions may be eliminated, retraining requirements and other transition factors. The procedures, when submitted to the Bureau of Human Resources, must be adopted by the bureau as its own rule. Nothing in this section prevents an employee from seeking and accepting employment outside of State Government. If such employment is secured by an employee, the obligation created in this section is dissolved.

Sec. 2. 5 MRSA §1589 is enacted to read:

§1589. Appropriations and allocation balances

At the end of each fiscal year, unencumbered appropriation and allocation balances lapse into the appropriate fund or account balance and are not available unless authorized by law, or as provided for in subsections 1 to 5. Encumbered balances may not be carried forward more than once at the end of a fiscal year.

1. Carry-forward and transfer authorized. At the end of each fiscal year, 30% of the available balances remaining in each General Fund and Highway Fund account after the deduction of all expenditures, encumbrances, commitments or outstanding payment obligations that would otherwise lapse to each fund by law must be carried forward each fiscal year to be transferred and used as provided for in subsections 2 to 5.

2. General Fund statewide account; Highway Fund statewide account. The State Controller shall transfer the available balances carried forward in accordance with subsection 1 in each General Fund account as follows: 83 1/3% into a General Fund departmentwide account established by the State Controller in the same department or agency; and 16 2/3% into a General Fund statewide account established by the State Controller. The State Controller shall transfer the available balances carried forward in accordance with subsection 1 in each Highway Fund account as follows: 83 1/3% into a Highway Fund departmentwide account established by the

State Controller in the same department or agency; and 16 2/3% into a Highway Fund statewide account established by the State Controller.

3. Total quality management initiatives. Available balances transferred into each departmentwide and statewide account in accordance with subsection 2 must be used for the payment of nonrecurring expenditures representing total quality management initiatives in the same department or agency or on a statewide basis, respectively.

4. Copies of proposals to Bureau of the Budget and Office of Fiscal and Program Review. Copies of each approved proposal for the expenditure of funds transferred into each departmentwide and statewide account in accordance with subsection 2 must be submitted from each department's or agency's quality management council and the Maine Quality Management Council, respectively, to the Bureau of the Budget and the Office of Fiscal and Program Review.

5. Payments in accordance with allotments. Payments from each departmentwide and statewide account established in accordance with subsection 2 representing expenditures in support of approved proposals submitted to the Bureau of the Budget in accordance with subsection 4 will be authorized by the State Controller on the basis of allotments approved by the Governor in accordance with established law.

6. Report required. The Department of Administrative and Financial Services and the Maine Quality Management Council shall report to the joint standing committee of the Legislature having jurisdiction over state and local government matters annually no later than February 1st, the following:

A. The total amount authorized for transfer, by department, under subsection 1;

B. A description of initiatives submitted under subsection 4; and

C. A recommendation from the Maine Quality Management Council and the Department of Administrative and Financial Services on any changes in the transfer amount authorized under subsections 1 and 2.

7. Sunset. Authorization for this section expires on July 1, 1995. In their report to the joint standing committee of the Legislature having jurisdiction over state and local government matters, the Maine Quality Management Council and the Department of Administrative and Financial Services shall provide their recommendations to the Governor and the Legislature concerning the need for extending authorization for this section.

Sec. 4. 5 MRSA §12004-I, sub-§77-A is enacted to read:

<u>77-A.</u>	<u>Maine</u>	<u>Not Autho-</u>	<u>5 MRSA</u>
<u>State</u>	<u>Quality</u>	<u>rized</u>	<u>§49</u>
<u>Government</u>	<u>Management</u>		
	<u>Council</u>		

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

Effective July 13, 1993.

CHAPTER 477

S.P. 525 - L.D. 1548

An Act to Amend the Laws Regarding Health Insurance and Health Care Services

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

PART A

Sec. A-1. 24 MRSA §2349, sub-§§1 and 2, as enacted by PL 1989, c. 867, §1 and affected by §10, are amended to read:

1. Contracts subject to this section. This section applies to all individual and group contracts issued by nonprofit hospital or medical service organizations, except group long-term care policies as defined in Title 24-A, section 5051.

2. Persons provided continuity of coverage. Except as provided in subsection 3, this section provides continuity of coverage for a person who seeks coverage under a an individual or group nonprofit hospital or medical service organization contract if:

A. That person was covered under an individual or group contract or policy issued by any insurer, health maintenance organization, nonprofit hospital or medical service organization, or was covered under an uninsured employee benefit plan that provides payment for health services received by employees and their dependents or a governmental program such as Medicaid, the Maine Health Program, as established in Title 22, section 3189, the Maine High-Risk Insurance Organization, as established in Title 24-A, section 6052, and the Civilian Health and Medical Program of the Uniformed Services, 10 United States Code, Section 1072, Subsection 4. For purposes of this section, the individual or group contract under which the person is seeking coverage is the "succeeding contract." The group or individual contract or policy that previously covered the person is the "prior contract or policy"; and