

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

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

Effective April 8, 1994.

CHAPTER 643

H.P. 1153 - L.D. 1552

An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State

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

Sec. 1. 4 MRSA §805-A, sub-§2, ¶A, as enacted by PL 1985, c. 124, §6, is amended to read:

A. Produces satisfactory evidence of good moral character;

(1) The fact that an applicant has been convicted as an adult of a crime that is punishable by imprisonment of one year or more in this State or in another state or jurisdiction of the United States raises a presumption that the applicant has not met this requirement. This presumption may be rebutted by proof that a lawful pardon has been obtained, that extraordinary circumstances surrounded the commission of the crime or that a reasonable amount of time has passed since the applicant's conviction and completion of sentence and there is evidence of complete rehabilitation based on the applicant's subsequent history.

(2) Nothing in subparagraph (1) precludes the board or the Supreme Judicial Court from considering a conviction as a basis for disqualification under this paragraph;

See title page for effective date.

CHAPTER 644

H.P. 1155 - L.D. 1554

An Act to Prohibit Discrimination in the Assignment of School Attendance Areas

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

Whereas, it is alleged that the children of the City of Portland face discrimination in their school attendance area assignments; and

Whereas, it is alleged that school administrative units have discriminated against children of low-income families in certain areas for a long period of time; and

Whereas, this economic discrimination must be remedied before the start of the next school year; 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. 20-A MRSA §4502, sub-§4-B is enacted to read:

4-B. Economic discrimination. A school board may consider the economic conditions within its geographical area of jurisdiction in assigning pupils to schools within a school administrative unit or a centralized education program but may not make assignments solely on the basis of economic condition.

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

Effective April 8, 1994.

CHAPTER 645

S.P. 560 - L.D. 1596

An Act to Promote Managed Care and to Otherwise Facilitate the Cost-effective Delivery of Health Care in the State

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

Whereas, it has become apparent that the laws relating to managed health care plans are restricting the ability of such plans to negotiate reductions in costs; 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:

PART A

Sec. A-1. 22 MRSA §396-I, sub-§4, as amended by PL 1991, c. 786, §2, is repealed and the following enacted in its place:

4. Negotiated discounts. A hospital participating in the rate per case system may negotiate discounts to charges with payors or purchasers. A hospital participating in the total revenue system may negotiate discounts with the approval of the commission according to standards adopted by rule of the commission. The revenue losses resulting from negotiated discounts may not be reflected in the computation of a hospital's revenue limit. Negotiated discounts may include capitation arrangements for hospital and other services and other contracts in which an agreed payment amount may, in individual cases, be more or less than the established charge for the services rendered.

Sec. A-2. 22 MRSA §1829, sub-§2, ¶B, as repealed and replaced by PL 1991, c. 548, Pt. A, §17, is amended to read:

B. Covered under an insurance policy or contract that is not subject to Title 24, section 2302-B, Title 24-A, section 2749-A or Title 24-A, section ~~2848~~ 2847-A.

Sec. A-3. 24-A MRSA §2736-C, sub-§3, ¶B, as enacted by PL 1993, c. 477, Pt. C, §1 and affected by Pt. F, §1, is amended to read:

B. Renewal must be guaranteed to all individuals except:

- (1) For nonpayment of the required premiums by the policyholder or contract holder;
- (2) For fraud or material misrepresentation by the policyholder or contract holder;
- (3) For fraud or material misrepresentation on the part of the individual or the individual's representative; ~~and~~
- (4) When the carrier ceases providing individual health plans in compliance with subsection 4: ~~;~~ or
- (5) When the carrier ceases offering a product and replaces it with a product that complies with the requirements of this sec-

tion, including renewability, and the superintendent finds that replacement is in the best interest of the policyholders.

Sec. A-4. 24-A MRSA §2808-B, sub-§4, ¶B, as enacted by PL 1991, c. 861, §2, is amended to read:

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: ~~;~~ or
- (6) When the carrier ceases offering a product and replaces it with a product that complies with the requirements of this section, including renewability.

Sec. A-5. 24-A MRSA §4202-A, sub-§10, as enacted by PL 1991, c. 709, §2, is amended to read:

10. Health maintenance organization.

"Health maintenance organization" means a public or private organization that is organized under the laws of the Federal Government, this State, another state or the District of Columbia or a component of such an organization, and that:

- A. Provides, arranges or pays for, or reimburses the cost of, health care services, including, at a minimum, basic health care services to enrolled participants;
- B. Is compensated, except for reasonable co-payments, for basic health care services to enrolled participants solely on a predetermined periodic rate basis, except that the organization is not prohibited from having a provision in a group contract allowing an adjustment of premiums based upon the actual health services utili-

zation of the enrollees covered under the contract, and except that such a contract may not be sold to an eligible group subject to the community rating requirements of section 2808-B;

C. Provides physicians' services primarily directly through physicians who are either employees or partners of that organization or through arrangements with individual physicians or one or more groups of physicians organized on a group-practice or individual-practice basis under which those physicians or groups are provided effective incentives to avoid unnecessary or unduly costly utilization, regardless of whether a physician is individually compensated primarily on a fee-for-service basis or otherwise. The organization may discharge its obligation through a point-of-service option product by reimbursing out-of-plan providers pursuant to the terms contained in the group contract holder's group contract. Receipt of out-of-plan covered services by an enrollee does not obligate the organization for an enrollee's responsibilities to meet copayments or deductibles; and

D. Ensures the availability, accessibility and quality, including effective utilization, of the health care services that it provides or makes available through clearly identifiable focal points of legal and administrative responsibility.

Nothing in this subsection prevents a health maintenance organization from providing fee-for-service health care services as well as health maintenance organization services. A health care provider or affiliated entity that does not offer health insurance or health benefit plans may not be or become a health maintenance organization subject to this chapter solely by reason of arrangements with insurers or hospital or medical service organizations for reimbursement in whole or in part on a capitated basis, the financial risk to the provider or affiliated entity associated with reimbursement arrangements with such 3rd-party payors or the furnishing by the provider or affiliated entity of utilization or case management services.

Sec. A-6. 24-A MRSA §4207, sub-§5, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

5. A schedule or an amendment to a schedule of charge for enrollee health coverage for health care services may not be used by any health maintenance organization unless it complies with section 2736 or 2839, whichever is applicable.

Sec. A-7. Reconsideration and amendment of Bureau of Insurance Rule Chapter 750. The Superintendent of Insurance shall reconsider and

amend, in accordance with the Bureau of Insurance Rule Chapter 750 regarding benefits in the standard and basic plans for small group health insurance, the Maine Revised Statutes, Title 24-A, section 2808-B, subsection 8, to ensure that the benefits and benefit limitations do not discriminate against chiropractors whose services are mandated by law. The superintendent shall report to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters by October 1, 1994, on the reconsideration and amendment of Bureau of Insurance Rule Chapter 750.

PART B

Sec. B-1. 24 MRSA §2302-B is enacted to read:

§2302-B. Penalty for noncompliance with utilization review programs

A contract issued or renewed by a nonprofit service organization after the effective date of this section may not contain a provision that establishes a penalty of more than \$500 for failure to provide notification under a utilization review program.

Sec. B-2. 24-A MRSA §2736-C, sub-§8 is enacted to read:

8. Authority of the superintendent. The superintendent may by rule define one or more standardized individual health plans that must be offered by all carriers offering individual health plans in the State.

Sec. B-3. 24-A MRSA §2749-B is enacted to read:

§2749-B. Penalty for noncompliance with utilization review programs

A health insurance policy issued or renewed in this State after the effective date of this section may not contain a provision that establishes a penalty of more than \$500 for failure to provide notification under a utilization review program.

Sec. B-4. 24-A MRSA §2772, sub-§5 is enacted to read:

5. Penalty for noncompliance with utilization review programs. A medical utilization review program may not recommend or implement a penalty of more than \$500 for failure to provide notification.

Sec. B-5. 24-A MRSA §2847-D is enacted to read:

§2847-D. Penalty for noncompliance with utilization review programs

A policy or certificate issued or renewed after the effective date of this section may not contain a provision that establishes a penalty of more than \$500 for failure to provide notification under a utilization review program.

Sec. B-6. 24-A MRSA §2860-A, as enacted by PL 1993, c. 208, §3, is amended to read:

§2860-A. Commissions

A commission not exceeding 5% of credit life and health insurance premiums, as set forth by rules adopted by the superintendent, may be paid to any creditor who is a licensed credit insurance agent. This section does not prohibit fees paid to a lender for handling or processing credit life or health insurance not exceeding 10% of prima facie premiums as set forth by rules adopted by the superintendent.

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

Effective April 8, 1994.

CHAPTER 646

H.P. 1202 - L.D. 1611

An Act to Adjust the Dates for Distributions from the State Harness Racing Commission

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

Whereas, this legislation provides for the distribution of commissions on wagers and requires certain distributions by May 15; 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. 8 MRSA §275-I, sub-§3, as enacted by PL 1993, c. 388, §8, is amended to read:

3. Distribution based on race dates. Payments made under subsections 1 and 2 for distribution in

accordance with this subsection must be ~~divided equally distributed~~ among licensees conducting live racing in the State in proportion to the number of racing days granted by the commission and actually raced by that licensee and the total number of racing days granted in any one year by the commission and actually raced by all licensees days each licensee is both licensed to be and is open for wagering during the year in which the payments are made. Payment must be made by the end of the calendar year. Payments made for wagers accepted before May 1st must be distributed not later than May 15th among all licensees in proportion to the number of days they are licensed to accept wagers for the entire year. Payments made for wagers accepted after April 30th and before September 1st must be distributed not later than September 15th. Payments made for wagers accepted after August 31st and on or before December 31st must be distributed among licensees so that the total distribution under this subsection to each licensee for the entire year is in proportion to the number of days each licensee was licensed to and did in fact accept wagers.

Sec. 2. 8 MRSA §275-J, sub-§3, as enacted by PL 1993, c. 388, §8, is amended to read:

3. Distribution based on wagered amounts. Amounts On May 15th, September 15th and within 15 days after the close of all off-track betting facilities for the year, amounts payable under subsections 1 and 2 for distribution in accordance with this subsection must be ~~divided equally among~~ distributed to commercial race tracks in the State that provide simulcast transmission of live racing in the State in proportion to the amount of wagers placed at off-track betting facilities on simulcast races from that licensee ~~in the previous calendar year up to the last day of the preceding month~~ and the total amount wagered at off-track betting facilities on races simulcast from all commercial racetracks ~~in that year up to that date. In the first year of distribution, the amounts must be distributed based on the proportion of wagers made in that first year.~~ The last payment of the calendar year must be adjusted to reflect each licensee's wagers in proportion to the total wagered at off-track betting facilities in that calendar year.

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

Effective April 8, 1994.
