

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

expiration of the associated 12-month excise tax period, unless the excise tax was credited to another registration, in which case the 12-month period continues to run in association with the replacement registration. The amount of the credit is equal to the amount of the excise tax paid in order to register the original vehicle multiplied by a fraction, the numerator of which is the number of complete months short of 12 months during which the registration was surrendered and the denominator is 12; or

B. Three-tenths of the amount of tax paid to the State by the taxpayer resulting from the tax on the rental of automobiles for a period of less than one year during the most recently completed period from July 1st to June 30th.

3. Treasurer of State; notification. Upon the determination of the reimbursement amount to be paid to a vehicle owner or rental company, the State Tax Assessor shall inform the Treasurer of State of the determination and the Treasurer of State shall make the reimbursement. These reimbursements must be accounted for and paid as sales and use tax refunds. Unless the reimbursement is paid before November 1st of the year in which the report required in subsection 1 is filed or within 60 days of the filing of that report, whichever is later, interest at the rate provided in section 186 must be paid for the period of time that transpires after the deadline before payment is made.

Sec. 9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1994-95

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Bureau of Taxation

Positions	(1.0)
Personal Services	\$9,815
All Other	180,000
Capital Expenditures	7,645

Provides funds for a Senior Revenue Agent position effective April 1, 1995, computer system modifications and operational expenses.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
TOTAL

\$197,460

Sec. 10. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 36, section 1811, first paragraph takes effect August 1, 1994. That section of this Act that enacts a new last paragraph to Title 36, section 1811 takes effect January 1, 1995. That section of this Act that enacts Title 36, section 2015 takes effect July 1, 1995.

See title page for effective date, unless otherwise indicated.

CHAPTER 702

S.P. 592 - L.D. 1651

An Act to Promote Flexibility in Health Care Delivery Systems

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

PART A

Sec. A-1. 24 MRSA §2301, as amended by PL 1979, c. 377, is further amended to read:

§2301. Purposes

Any corporation organized under special Act of the Legislature or under Title 13, chapter 81 for the following purposes may be authorized by the ~~commissioner~~ superintendent on the terms and conditions provided for in this chapter; ~~except that where when~~ such a corporation was heretofore previously organized by special Act of the Legislature, this chapter ~~shall does not apply where when~~ inconsistent with ~~such that~~ that Act as ~~heretofore previously~~ previously amended:

1. Nonprofit hospital service plans. To establish, maintain and operate nonprofit hospital service plans; whereby hospital care may be provided by hospitals or groups of hospitals with which such a corporation has a contract for ~~such that~~ such those purpose; to ~~such those~~ such those persons or groups of persons as ~~who~~ who become subscribers to ~~said that~~ said that plan under a contract ~~which that~~ which that entitles each subscriber to certain hospital care, and the hospital or hospitals ~~so~~ so contracting with such a corporation ~~shall be~~ shall be ~~are~~ are governed by this chapter and by ~~such the~~ such the provisions of Title 24-A as ~~shall become~~ shall become ~~that are~~ that are applicable as provided in this chapter;

2. Nonprofit medical service plans. To establish, maintain and operate nonprofit medical service plans; whereby medical or surgical service is provided to ~~such those~~ persons or groups of persons ~~as shall~~ who become subscribers to such a plan under contracts with such a corporation, either in the capacity of principal or in the capacity of agent of other nonprofit medical service corporations; or insurance companies authorized to do business in this State, and the physician or physicians ~~so~~ contracting with such a corporation ~~shall be~~ are governed by this chapter and by ~~such the~~ provisions of Title 24-A ~~as shall become~~ that are applicable as provided in this chapter;

3. Nonprofit health care plans. To establish, maintain and operate nonprofit health care plans whereby health care services not covered under subsections 1 and 2 may be provided, by institutions or persons licensed for ~~such that~~ purpose by the State of ~~Maine~~ when licensure is required, with which such a corporation has a contract for ~~such that~~ purpose, to ~~such those~~ persons or groups of persons ~~as who~~ become subscribers to such a plan under a contract ~~which that~~ entitles each subscriber to certain specific health care, and the ~~licensed~~ institution or persons ~~so~~ contracting with such a corporation ~~shall be~~ are governed by this chapter and by ~~such the~~ provisions of Title 24-A ~~as shall become~~ that are applicable as provided in this chapter;

3-A. Integrated medical service plans; indemnity health care contracts; health care plan administration. A corporation subject to this chapter that maintains a nonprofit hospital service plan, a nonprofit medical service plan or a nonprofit health care plan in accordance with subsections 1, 2 or 3 may, in addition:

A. Issue and maintain in force indemnity health care contracts whereby persons or groups of persons who are contract holders may be indemnified by that corporation for expenses for hospital care, medical or surgical services or other health care services. An indemnity contract issued pursuant to the authority established by this section is subject to all the requirements relating to content and interpretation of such policies and contracts that apply to policies of the same kind of insurance as set forth in Title 24-A;

B. Issue and maintain in force employee benefit excess insurance as defined in Title 24-A, section 707, subsection 1, paragraph C-1 with respect to health insurance and underlying risks that the corporation is authorized to cover under this chapter. The provisions of Title 24-A, section 707, subsection 3 apply to the employee benefit excess insurance issued by a hospital or medical service corporation;

C. Issue and maintain in force hospital, medical service and health care plans and contracts that include health care benefits for workplace and nonworkplace injury and illness in accordance with Title 39-A, section 403, subsection 2;

D. Receive or collect charges, contributions or premiums, adjust or settle claims, and perform related administrative, management, accounting, bookkeeping and advisory functions on behalf of any plan, fund or program established or maintained by a plan sponsor, health care services plan, health maintenance organization, health care provider or insurer, including plans, funds or programs established or maintained to provide through insurance or alternatives to insurance a type of life, annuity, health or workers' compensation benefit, except that nothing in this subsection may be interpreted as authorizing a nonprofit hospital, medical or health care service corporation to assume insurance risks not related to health care under contracts for life or workers' compensation insurance or annuities;

E. Establish, maintain, own, merge with, organize and operate a health maintenance organization directly as a division or line of business of the corporation, or indirectly as a subsidiary or affiliate of the corporation, pursuant to Title 24-A, chapter 56, which health maintenance organization has all of the rights and powers and is subject to all of the duties and responsibilities of a separately organized health maintenance organization under that chapter. A corporation subject to this chapter that engages in such activities may not be deemed to be practicing medicine and is exempt from provisions of law relating to the practice of medicine; and

F. Perform, on behalf of others, clerical, bookkeeping, accounting, statistical, management, personnel, marketing or similar services related to the provision of health care or health care financing, or establish, maintain, own and operate entities, independently or with others, to perform such services;

3-B. Hospital and medical service business exclusive. A hospital or medical service corporation may not engage in a business other than the business of hospital or medical service corporations as set forth in this section and in business activities reasonably and necessarily related to that business, except that:

A. A hospital or medical service corporation may also engage in activities reasonably necessary to the management, supervision, servicing and protection of its lawful investments;

B. A hospital or medical service corporation may own subsidiaries or subsidiaries owning other subsidiaries that may engage in the activities under Title 24-A, section 1157; and

C. A hospital or medical service corporation may utilize its facilities to perform administrative services for a governmental body, unit or agency;

4. Inadvertent payments. ~~In the event that~~ If direct payment is inadvertently made to a hospital, physician or other provider of medical services or health care by or on behalf of a subscriber or member, ~~such a~~ corporation may reimburse the subscriber up to the amount payable under the plan to a hospital, a physician or other provider of medical services or health care;

5. Principal or agent. In order to maintain and operate such plans, ~~such contracts, facilities and services,~~ a corporation may act either in the capacity of principal or agent of other nonprofit hospital service corporations, ~~or~~ insurers, health maintenance organizations, health care services plans, employee benefit plans, health care and employee benefit plan sponsors and health care providers authorized to do business in this State;

6. Contracts and agreements. To contract with any similar corporations in other states for the joint administration of their business; and to enter into reciprocal arrangements for the mutual benefit of their subscribers;

7. Administrative services. ~~With the prior approval of the superintendent, such~~ A corporation ~~shall have~~ has the right to utilize its organization and facilities, either directly or through another legal entity owned by it and similar corporations located in other states, to perform services for the United States or ~~the State of Maine Government~~ or the units or agencies of either; or any charitable or nonprofit organization involved in health care;

8. Right to contract. The State, or any county, city, town or other quasi-municipal corporation ~~shall have~~ has the same right to contract with ~~any~~ a corporation subject to this chapter as it ~~may have~~ has under Title 24-A, section 4501 with respect to insurers;

8-A. Managed care plans. With respect to managed care plans that require subscribers to select primary care physicians, a corporation subject to this chapter must meet the following requirements:

A. The corporation shall offer to groups of all sizes health benefit plans that meet the requirements for standardized health plans specified in Bureau of Insurance Rules, Chapter 750;

B. The managed care plan must provide a spectrum of providers and services that meets patient demand;

C. The managed care plan must provide to its members reasonable access to health care services. The Superintendent of Insurance shall adopt rules that consider geographical and transportation problems in rural areas; and

D. The managed care plan must demonstrate a plan for providing services for rural and underserved populations and for developing relationships with essential community providers. The corporation must make an annual report to the Superintendent of Insurance regarding the plan.

~~**9. Indemnity health care contracts.** Nothing in this chapter shall authorize an organization operating under this chapter to enter into indemnity health care contracts.~~

9-A. Investments. Investments by corporations subject to this chapter are governed by this paragraph.

A. A corporation subject to this chapter may invest funds in the same manner and to the same extent as domestic mutual insurers under the provisions of Title 24-A, chapter 13-A, except that such a corporation shall maintain reserves for possible losses or fluctuation in the value of investments as contemplated in Title 24-A, section 921, subsection 6. Those reserves must comprehend, at a minimum, an asset valuation reserve and an income maintenance reserve calculated by methods that are consistent with standards that have been adopted by the superintendent for management of investment risk by life and health insurers.

B. Any limitation stated in Title 24-A, chapter 13-A on the investment powers of a mutual domestic insurer expressed in relation to the "surplus" of that insurer must be applied to a corporation subject to this chapter in relation to that corporation's subscriber reserves.

C. Notwithstanding the limitation stated in Title 24-A, section 1156, subsection 2, paragraph D, a hospital or medical service corporation may invest in real property or interests in real property that is located in the United States, held directly or evidenced by partnership interests, stock of corporations, trust certificates or other instruments and acquired:

(1) As an investment for the production of income or to be improved or developed for that investment purpose; or

(2) For the convenient accommodation of the corporation's business.

After giving effect to any of those investments, the aggregate amount of investments made under subparagraph (1) may not exceed 20% of the hospital or medical service corporation's total admitted assets; the aggregate amount of investments made under subparagraph (2) may not exceed 15% of the corporation's total admitted assets; and the aggregate amount of investments made under this paragraph may not exceed 25% of the corporation's total admitted assets. Investments under subparagraph (1) in any single property, including improvements on that property, may not in the aggregate exceed 2% of the corporation's total admitted assets.

D. In addition to the investments permitted under paragraph C, a hospital or medical service corporation that operates and establishes, maintains, merges with or organizes a health maintenance organization not organized as a separate legal entity may invest in real estate, including leasehold estates, for the convenient accommodation of the health maintenance organization's business, including hospitals, medical clinics, medical professional buildings and any other facility that is to be used by a provider in the provision of health care or by any other health care provider under contract with the health maintenance organization, and that facility must be used in the provision of health care services to members of the health maintenance organization by that provider.

(1) A parcel of real estate acquired under this subsection may include excess space for rent to others if it is reasonably anticipated that that excess will be required for expansion or if the excess is reasonably required in order to have one or more buildings that function as an economic unit.

(2) Real estate subject to this subsection may be subject to a mortgage.

(3) The admitted value of the investment may not exceed the greater of the hospital or medical service corporation's subscriber reserve or 20% of the corporation's admitted assets, and the aggregate investment in real estate held under paragraph C and under this paragraph may not exceed 40% of the corporation's admitted assets, except with the approval of the superintendent if the superintendent finds that those percentages of the corporation's admitted assets are insufficient to provide for the convenient accommodation of the health maintenance

organization's business. Investments in any single property, including improvements on that property, may not in the aggregate exceed 5% of the corporation's total admitted assets.

E. Notwithstanding any provisions of this section and Title 24-A, chapter 13-A allowing other investments, a corporation subject to this chapter shall maintain cash or investment grade obligations, as defined in Title 24-A, section 1162-A, that at all times have a fair market value of not less than 100% of the corporation's liability for claims payable, incurred, but not reported, claims payable, unpaid claims adjustment expenses, unearned premiums and, as applicable, any statutory, special or additional reserves provided by the corporation for the benefit of subscribers as of the close of the corporation's most recent calendar quarter prepared on the basis of statutory accounting principles. If the corporation's liability for these enumerated items increases more than 10% prior to the end of the calendar quarter, the corporation must, within 10 days of the determination, reallocate its investments to ensure compliance with this paragraph.

F. The superintendent may establish risk-based capital standards applicable to corporations subject to this chapter, their subsidiaries and controlled affiliates that engage in health care related business activities that the parent corporation conducts.

G. A director, officer or employee of a corporation subject to this chapter who receives, collects, disburses or invests funds in connection with the activities of that organization is responsible for those funds in a fiduciary relationship to the corporation.

H. For corporations subject to this subsection, the following terms have the following meanings.

(1) "Admitted assets" means those assets owned by the corporation, as defined in Title 24-A, section 901, reduced in amount by any applicable provision of this Title or Title 24-A. For purposes of applying the investment limitations of Title 24-A, chapter 13-A, the asset value must be that contained in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or contained in an audited financial report, as defined in Title 24-A, section 221-A, of more current origin prepared on the basis of statutory accounting principles.

(2) "Subscriber reserves" means those reserves held by the corporation for the protection of subscribers that are the excess of the corporation's assets over its liabilities as set forth in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or contained in an audited financial report, as defined in Title 24-A, section 221-A, of more current origin prepared on the basis of statutory accounting principles;

9-B. Conversion to mutual insurer. Conversion to a mutual insurer is subject to this subsection.

A. A corporation subject to this chapter may become a mutual insurer under a plan and procedure approved by the superintendent after a hearing.

B. The superintendent may not approve any plan or procedure for mutualization unless:

(1) The plan is approved or subject to approval by 2/3 of the members of the corporation having voting rights under the bylaws who vote on a plan of conversion in person, by proxy or by mail pursuant to notice and procedure approved by the superintendent;

(2) The mutualization leaves the insurer in possession of capital or surplus funds adequate to satisfy the provisions of Title 24-A, section 410;

(3) The plan of mutualization provides a demonstration through submission of a satisfactory corporate business plan that at a minimum projects the 3 prospective years following the mutualization and sets out a disposition or application of the assets of the corporation to be apportioned to support indemnity contracts, health maintenance organization contracts, service benefit contracts and other classes of benefits to be issued by the mutual insurer either directly or through subsidiaries or affiliates; and

(4) The terms and conditions of the plan are fair and equitable.

C. A director, officer, agent or employee of the corporation, or any other person, may not receive a fee, commission or other valuable consideration, other than customary salary or other regular compensation, for aiding, promoting or assisting in the mutualization except as set forth in the plan of mutualization as approved by the superintendent;

9-C. Health maintenance organizations. A corporation subject to this chapter is not required to maintain separate reserves or surplus with respect to the operations of a health maintenance organization that is not a separate legal entity. All assets of the corporation, other than assets supporting reserves set aside in accordance with a plan for the continuation of benefits to health maintenance organization members under Title 24-A, section 4204, subsection 7 and assets supporting additional reserves as defined in Title 24-A, section 921, must be available to pay claims arising from corporate operations. A hospital or medical service corporation that establishes and maintains a health maintenance organization not organized as a separate legal entity shall maintain separate accounting for the health maintenance organization;

10. Superintendent defined. As used in this chapter "superintendent" means the Superintendent of Insurance Commissioner of this State; and

11. Separate accounts. A hospital or medical services corporation that issues indemnity contracts, contracts pursuant to hospital, medical or health care service plans or integrated medical service plans shall maintain separate accounting for each of these lines of business.

Sec. A-2. 24 MRSA §2301-A is enacted to read:

§2301-A. Continuity of licensure; business combinations

When a health maintenance organization authorized pursuant to Title 24-A, chapter 56 merges or consolidates with a nonprofit hospital, medical or health care service organization and operations of the surviving entity include those of a health maintenance organization, the surviving entity succeeds on a continuing basis to the authority possessed by the merging entities if:

1. Plan approved. The Superintendent has approved the plan of merger or consolidation pursuant to Title 24-A, section 4203;

2. Entity financially qualified. The entity is financially qualified pursuant to the provisions of Title 24-A, sections 410 and 4204-A; and

3. Entity otherwise qualified. The entity is otherwise qualified pursuant to this Title and Title 24-A, chapter 56.

Sec. A-3. 24 MRSA §2306, as amended by PL 1973, c. 585, §12, is further amended to read:

§2306. Reports

Every Annually, on or before April 1st, every corporation organized under this chapter shall annually on or before the first day of April file in the office of the commissioner superintendent a statement verified by at least 2 of the principal officers of said that corporation showing its condition on the 31st day of previous December, then next preceding, which shall be in such form and shall contain such matters as the superintendent shall prescribe 31st. The statement must be on an annual statement blank of the National Association of Insurance Commissioners for use by nonprofit hospital or medical service corporations, be prepared in accordance with the association's annual statement instructions, follow practices and procedures prescribed by the association's accounting practices and procedures manual and be accompanied by any useful or necessary modification or adaptation and any additional information required by the superintendent.

A nonprofit hospital or medical service corporation that controls and operates a health maintenance organization as a division or line of business of the corporation shall file on a continuing basis any additional periodic financial reports required by the superintendent by rule.

Sec. A-4. 24 MRSA §2307, as amended by PL 1973, c. 585, §12, is repealed and the following enacted in its place:

§2307. Examination

1. Examination by superintendent. The superintendent or the superintendent's designee has the power of visitation and examination into the affairs of any corporation described in section 2301 and has free access to the books, papers and documents that relate to the business of the corporation and may summon and qualify witnesses under oath and examine its officers, agents or employees or other persons in relation to the affairs, transactions and condition of the corporation.

2. Costs of examination. The reasonable costs of such an examination must be borne by the corporation examined.

3. Accountant's work papers. The superintendent may require a corporation subject to this section to make available the accountant's work papers created during an audit.

A. The superintendent may review the accountant's work papers upon timely notice to the corporation. The superintendent may photocopy or otherwise record the contents of work papers during the review.

B. Work papers or copies of work papers under the superintendent's custody or control are confidential and are not subject to public inspection.

C. The work papers of the corporation's subsidiaries, parent or other corporate affiliates are considered to be the corporation's work papers to the extent that the work papers reference transactions between the corporation and the subsidiary, parent or corporate affiliate and affect the corporation's final equity determination.

D. The corporation shall, as a condition of an accountant's engagement, require the accountant:

(1) To retain the work papers prepared in connection with an audit of the corporation for at least 6 years after the close of a reporting period; and

(2) To provide the work papers, or a copy, to the corporation at the corporation's request.

For purposes of this subsection, the term "work papers" includes, but is not limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and the accountant's employees in conducting the audit of the corporation.

Sec. A-5. 24 MRSA §2307-A is enacted to read:

§2307-A. Rules

Subject to the Maine Administrative Procedure Act, the superintendent may make, adopt, amend and rescind reasonable rules to aid the administration or effectuation of the provisions of this Title.

Sec. A-6. 24 MRSA c. 19, sub-c. III is repealed.

Sec. A-7. 24-A MRSA §410, sub-§1, ¶F is enacted to read:

F. A health maintenance organization as a division or line of business is subject to this paragraph.

(1) An insurer that operates a health maintenance organization as a division or a line of business shall possess and maintain policyholder's surplus, including paid-in capital stock if any, as otherwise required by this section and in addition shall meet the surplus requirements of section 4204-A.

(2) A nonprofit hospital or medical service organization that operates a health maintenance organization as a division or as a line of business shall possess and maintain subscriber reserves as defined in section 2301, subsection 9-A, paragraph H, subparagraph (2) and in an amount required by the superintendent and in addition shall meet the surplus requirements of section 4204-A.

Sec. A-8. 24-A MRSA §423-B is enacted to read:

§423-B. Periodic financial reports of insurer-controlled health maintenance organizations

An authorized insurer that controls and operates a health maintenance organization as a division or line of business shall file on a continuing basis any additional periodic financial reports required by the superintendent by rule.

Sec. A-9. 24-A MRSA §704-A is enacted to read:

§704-A. Health maintenance organization

For purposes of this Title, "health maintenance organization" is defined in section 4202-A, subsection 10.

Sec. A-10. 24-A MRSA §1901, sub-§1, ~~¶E~~, as enacted by PL 1989, c. 846, Pt. D, §2 and affected by Pt. E, §4, is amended to read:

E. A nonprofit hospital, medical or health care services plan, health maintenance organization, professional service plan corporation, or person in the business of providing continuing care, possessing a valid certificate of authority issued by the Bureau of Insurance, and a sales the sole representative of that person, plan, organization or corporation, if the activities of the plan, organization, corporation or person are limited to the activities permitted under the certificate of authority;

Sec. A-11. 24-A MRSA §4203, sub-§1, as amended by PL 1979, c. 216, §1, is further amended to read:

1. Subject to the Maine Certificate of Need Act of 1978, ~~any~~ a person may apply to the superintendent for and obtain a certificate of authority to establish ~~and maintain, own, merge with, organize or~~ operate a health maintenance organization in compliance with this chapter. ~~No~~ A person shall ~~may not~~ establish, ~~maintain, own, merge with, organize or~~ operate a health maintenance organization in this State either

directly as a division or a line of business or indirectly through a subsidiary or affiliate, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with, a health maintenance organization without obtaining a certificate of authority under this chapter. A foreign corporation may qualify under this chapter, subject to its registration to do business in this State as a foreign corporation.

Sec. A-12. 24-A MRSA §4204, sub-§3-A, as enacted by PL 1989, c. 842, §12, is amended to read:

3-A. Investments. The health maintenance organization shall invest funds only in accordance with chapter ~~13~~ 13-A, except as follows.

A. The health maintenance organization shall maintain asset valuation reserves consistent with industry standards for management of investments by life and health insurers.

B. Notwithstanding any limitation stated in section 1156, subsection 2, paragraph D, a health maintenance organization may invest in real property or interests in real property located in the United States, held directly or evidenced by partnership interests, stock of corporations, trust certificates or other instruments and acquired:

(1) As an investment for the production of income or to be improved or developed for that investment purpose; or

(2) For the convenient accommodation of the organization's business.

After giving effect to any of those investments, the aggregate amount of investments made under subparagraph (1) may not exceed 20% of the health maintenance organization's total admitted assets; the aggregate amount of investments made under subparagraph (2) may not exceed 15% of the organization's total admitted assets; and the aggregate amount of investments made under this paragraph may not exceed 25% of the organization's total admitted assets. Investments under subparagraph (1) in any single property, including improvements on that property, may not in the aggregate exceed 2% of the corporation's total admitted assets.

C. In addition to the investments permitted under paragraph B, a health maintenance organization may invest in real estate, including leasehold estates, for the convenient accommodation of its business, including hospitals, medical clinics, medical professional buildings and any other facility that is to be used in the provi-

sion of health care services, or real estate for rental to an affiliated health care provider or any other health care provider under contract with the health maintenance organization to provide health care services, and that facility must be used in the provision of health care services to members of the health maintenance organization by that provider.

(1) A parcel of real estate acquired under this subsection may include excess space for rent to others if it is reasonably anticipated that that excess will be required by the health maintenance organization for expansion or if the excess is reasonably required in order to have one or more buildings that function as an economic unit.

(2) Real estate subject to this subsection may be subject to a mortgage.

(3) The admitted value of the investment may not exceed the greater of the health maintenance organization's equity or 20% of the corporation's admitted assets, and the aggregate investment in real estate held under paragraph B and under this paragraph may not exceed 40% of the corporation's admitted assets, except with the approval of the superintendent if the superintendent finds that those percentages of the corporation's admitted assets are insufficient to provide for the convenient accommodation of the health maintenance organization's business. Investments under this subsection in any single property, including improvements on that property, may not in the aggregate exceed 5% of the corporation's total admitted assets.

D. Notwithstanding any provisions of this section and chapter 13-A allowing other investments, a health maintenance organization shall maintain cash or investment grade obligations, as defined in section 1162-A, that at all times have a fair market value of not less than 100% of the organization's liability for claims payable and incurred, but not reported, claims, unearned premiums, unpaid claims adjustment expenses and, as applicable, any statutory, special or additional reserves provided by the health maintenance organization for the benefit of members as of the most recent calendar quarter prepared on the basis of statutory accounting principles. If the organization's liability for claims payable and incurred, but not reported, claims increased more than 10% prior to the end of the calendar quarter, the organization must, within 10 days of the determination, reallocate its investments to ensure compliance with this paragraph. The in-

vestments required by this paragraph constitute admitted assets of the organization.

E. The superintendent may establish risk-based capital standards for health maintenance organizations, their subsidiaries and controlled affiliates that engage in health care related business activities that the parent corporation conducts.

Sec. A-13. 24-A MRSA §4205-A is enacted to read:

§4205-A. Continuity of licensure; business combinations

When a health maintenance organization authorized pursuant to this chapter merges or consolidates with an insurer or a nonprofit hospital, medical or health care service organization and operations of the surviving entity include those of a health maintenance organization, the surviving entity succeeds on a continuing basis to the authority possessed by the merging entities if:

1. Plan approved. The superintendent has approved the plan of merger or consolidation, pursuant to section 4203, subsection 1;

2. Entity financially qualified. The entity is financially qualified pursuant to the provisions of sections 410 and 4204-A; and

3. Entity otherwise qualified. The entity is otherwise qualified pursuant to this chapter.

Sec. A-14. 24-A MRSA §4214, sub-§1, as enacted by PL 1975, c. 503, is amended to read:

1. An Subject to the provisions of sections 222, 3479 to 3482 and chapters 13 and 13-A, an insurance company licensed in this State or a nonprofit hospital ~~or~~, medical or health care service organization may establish, maintain, own, merge with, organize and operate a health maintenance organization under this chapter, either directly as a division or line of business, or indirectly through a subsidiary or affiliate; ~~organize and operate a health maintenance organization under this chapter. Notwithstanding any other law which may be inconsistent herewith~~ Subject to the provisions of section 222 and chapters 13 and 13-A, ~~any~~ 2 or more such insurance companies, or nonprofit hospital ~~or~~, medical or health care service organizations, or subsidiaries or affiliates, ~~thereof~~ may jointly organize and operate a health maintenance organization. The business of an insurer or hospital or medical service corporation that establishes, maintains, owns, merges with, organizes or operates a health maintenance organization is considered to include the providing of health care by a health maintenance organization.

Sec. A-15. 24-A MRSA §4214, sub-§1-A is enacted to read:

1-A. A domestic insurer that establishes, maintains, merges with or organizes and operates a health maintenance organization as a division or line of business is governed in its investment of funds allocated to that line of business by the provisions of section 4204, subsection 3-A.

Sec. A-16. 24-A MRSA §4222, sub-§1, as enacted by PL 1975, c. 503, is amended to read:

1. Except as otherwise specifically provided in ~~this chapter~~, provisions of the insurance law ~~shall and the laws relating to hospital or medical service corporations do not be applicable~~ apply to any a health maintenance organization granted a certificate of authority under this chapter. This provision ~~shall does~~ not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws of this State, except with respect to its health maintenance organization activities, ~~whether those activities are conducted through a subsidiary or as a division or line of business, authorized and regulated pursuant to this chapter.~~

Sec. A-17. 24-A MRSA §4222-A is enacted to read:

§4222-A. Rules

Subject to the applicable requirements and procedures of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the superintendent may make, adopt, amend and rescind reasonable rules to aid the administration or effectuation of any provisions of this chapter.

Sec. A-18. P&SL 1939, c. 24, §2 is amended to read:

Sec. 2. Location. The corporation ~~shall be is~~ located at South Portland, in the county County of eumberland and state of Maine Cumberland, or at another location in this State that the board of directors determines is desirable or convenient.

Sec. A-19. P&SL 1939, c. 24, §3, as amended by P&SL 1957, c. 47, §1, is repealed and the following enacted in its place:

Sec. 3. Purposes. The corporation is organized for all purposes and activities permitted to hospital or medical service organizations under the Maine Revised Statutes, Title 24, chapter 19 and for all purposes and activities permitted to health maintenance organizations under Title 24-A, chapter 56. Subject to Title 24 and Title 24-A, the corporation has all of the general powers of corporations under Title 13-B, section 202.

Sec. A-20. P&SL 1939, c. 24, §3-A, as amended by P&SL 1957, c. 47, §2, is repealed.

Sec. A-21. P&SL 1939, c. 24, §3-B, as enacted by P&SL 1955, c. 175, §2, is repealed.

Sec. A-22. P&SL 1939, c. 24, §3-D, as enacted by P&SL 1957, c. 47, §4, is repealed.

Sec. A-23. P&SL 1939, c. 24, §5, as amended by P&SL 1943, c. 21, §2, is further amended to read:

Sec. 5. Articles of incorporation. Articles of incorporation of this corporation ~~shall must~~ be submitted to the ~~insurance commissioner Superintendent of Insurance~~ of the state of Maine ~~State~~, whose approval ~~thereof shall must~~ be endorsed ~~thereon~~ on the articles of incorporation before the same are filed with the ~~secretary of state Secretary of State~~. At least a majority of the directors of this corporation ~~must be at all times administrators, corporators, trustees, or members of the clinical staff of the hospital or hospitals which have contracted with this corporation to render hospital service to the subscribers.~~

~~This corporation may enter into contracts for the rendering of hospital service to the subscribers only with hospitals approved by the state department of welfare of the several states. All contracts for hospital service issued by this corporation to the subscribers shall constitute direct obligations of the hospital or hospitals with which this corporation has contracted for hospital care.~~

Sec. A-24. P&SL 1939, c. 24, §5-A, as enacted by P&SL 1943, c. 21, §3, is repealed.

Sec. A-25. P&SL 1939, c. 24, §7, as amended by P&SL 1967, c. 99, is repealed.

Sec. A-26. P&SL 1939, c. 24, §8, as amended by P&SL 1963, c. 135, §2, is further amended to read:

Sec. 8. Annual meetings. Any 3 of the corporators named in this ~~act Act~~ may call the first meeting of the corporation by mailing a written notice signed by 3 incorporators, postage prepaid, to each of the other incorporators at least 5 days at least before the day of the meeting, naming the time, place and purpose of ~~such the~~ meeting; and at ~~such the~~ meeting ~~such the~~ officers may be chosen and ~~such~~ business may be transacted as ~~shall be~~ specified in the call for ~~such the~~ meeting. Any subsequent annual meeting ~~shall must~~ be held at the home offices of the corporation, or at any place within the State, at ~~such any~~ time as the bylaws may provide. Public notice of each annual meeting ~~shall must~~ be given at least 10 days prior ~~thereto~~ to the meeting by publication in at least

3 daily newspapers published in 3 different cities within the State of ~~Maine~~, and a quorum for the conducting of business for ~~such the~~ meetings ~~shall consist~~ consists of at least 100 members with voting privileges, present in person or represented by proxy.

Sec. A-27. P&SL 1939, c. 24, §9 is amended to read:

Sec. 9. Merger or consolidation. The corporation may sell, lease, pledge, assign, mortgage, or otherwise dispose of the whole or any part of its property, franchises, permits, rights and privileges to any other corporation or mutual insurer organized or authorized to do a similar business, including any business authorized to issue any form of health care coverage, or may merge or consolidate with ~~such the~~ corporation; and it may buy or otherwise acquire the rights, permits, privileges, franchises or property of any person, partnership or corporation ~~which that~~ may be desirable in the conduct of its business.

The corporation and HMO Maine, a nonprofit corporation, upon recommendation of the boards of directors of this corporation and of HMO Maine, may apply to the Superintendent of Insurance within 180 days of the effective date of this Act for approval to merge and upon approval of the superintendent may effectuate the merger.

Sec. A-28. P&SL 1939, c. 24, §12 is repealed.

Sec. A-29. Purpose; merger of Associated Hospital Service of Maine and HMO Maine. The Legislature finds that it is the proper role of the State for the benefit of its people to facilitate the ability of the boards of directors of Associated Hospital Service of Maine and HMO Maine to seek a merger of those corporations subject to recommendations by those boards to merge and subject to compliance with regulatory review and approval.

Sec. A-30. Plan of merger; review of superintendent. Associated Hospital Service of Maine and HMO Maine, upon recommendation of the boards of directors of those corporations, may file for approval a plan of merger with the Superintendent of Insurance. The plan of merger must be approved by the superintendent after a hearing unless the superintendent finds that the plan:

1. Is contrary to law;
2. Is unfair to the members of Associated Hospital Service of Maine or HMO Maine;
3. Would jeopardize the financial condition of the surviving corporation or unduly prejudice the interests of the members and subscribers of the merging companies; or

4. The surviving corporation does not have in place an adequate plan for the continuation of benefits for the members of the merging companies.

Notice of hearing must be provided, at the expense of the applicants, to all members of the applicants, to all providers subject to participation agreements to provide hospital and medical care to Associated Hospital Service of Maine members and to all HMO Maine facilities and physicians, and in newspapers of general circulation in this State.

A merger accomplished in accordance with this section must be valid upon approval by the superintendent and by the boards of the merging entities. The surviving corporation of the merger, to the extent provided for in the plan of merger, has all of the authority of the merging companies to offer health care coverage, health maintenance organization services and related services and all of the powers under law of the merging entities. The merger has the effect of a merger under the Maine Revised Statutes, Title 13-B, section 905.

Sec. A-31. Report. The Superintendent of Insurance shall report to the joint standing committee having jurisdiction over banking and insurance matters on October 1, 1994; April 1, 1995; and October 1, 1995 on changes in the health care delivery system in the State and changes in the financing of health care delivery and developments in managed care activities. The report must identify and provide general descriptions of the different types of traditional and nontraditional health carriers and health care providers, including health maintenance organizations, preferred provider organizations, physician organizations, physician-hospital organizations, 3rd-party administrators, point of service plans, medical service organizations and utilization review entities.

Sec. A-32. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1994-95

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Insurance

Positions	(1.0)
Personal Services	\$71,300
All Other	7,000
Capital Expenditures	3,000

Provides for the allocation of funds to allow for the upgrade of one Insurance Contract Examiner position to one Senior Insurance Rate Analyst position, to authorize one Senior Health Care Financial Analyst position and to provide for additional general operating costs resulting from increased regulatory responsibilities.

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL REGULATION
TOTAL**

_____ \$81,300

PART B

Sec. B-1. 24-A MRSA §4204, sub-§2-A,
¶¶J to N are enacted to read:

J. The health maintenance organization offers to groups of all sizes health benefit plans that meet the requirements for standardized health plans specified in Bureau of Insurance Rule Chapter 750.

K. The health maintenance organization provides a spectrum of providers and services that meet patient demand.

L. The health maintenance organization provides to its members reasonable access to health care services. The superintendent shall adopt rules that consider geographical and transportation problems in rural areas.

M. The health maintenance organization demonstrates a plan for providing services for rural and underserved populations and for developing relationships with essential community providers within the area of the proposed certificate. The health maintenance organization must make an annual report to the superintendent regarding the plan.

N. Beginning July 1, 1995, the health maintenance organization offers coverage for purchase by individuals.

Sec. B-2. Cooperation of Bureau of Insurance and Maine Health Care Finance Commission regarding health care services information and data. The Bureau of Insurance and the Maine Health Care Finance Commission shall begin coop-

erative efforts in the field of health care information and data. The Bureau of Insurance and the Maine Health Care Finance Commission shall consult with each other and work cooperatively in the collection, storage and processing of information related to the utilization of health care services in the State and the costs and sources of payments for those services. To further these cooperative efforts, the Bureau of Insurance and Maine Health Care Finance Commission are exempt from their respective confidentiality restrictions. The Bureau of Insurance must comply with all confidentiality requirements of the Maine Health Care Finance Commission for any information and data it receives from the commission. The Maine Health Care Finance Commission must comply with the confidentiality requirements of the Bureau of Insurance for any information it receives from the bureau.

Sec. B-3. Report. Blue Cross and Blue Shield of Maine shall study the experience of its small group and individual pools and report its findings to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters on or before January 1, 1995. The study shall adjust for differences in benefits covered under the 2 pools and shall analyze the extent to which the differences in experience are explained by demographic differences.

Sec. B-4. Report. The Bureau of Insurance shall report to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters on or before March 1, 1996 on the effects of having separate pools for small groups and individuals and on the potential effects of combining the pools. The report must include available information based on experience in Maine or in other states.

See title page for effective date.

CHAPTER 703

H.P. 1343 - L.D. 1810

**An Act to Strengthen the Maine
Bottle Deposit Laws**

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

Sec. 1. 32 MRSA §1866, sub-§8 is enacted to read:

8. Application to containers originally sold in the State. The obligations to accept or take empty beverage containers and to pay the refund value and handling fees for such containers as described in subsections 1, 2, 3, 4 and 5 apply only to containers originally sold in this State as filled beverage contain-