

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
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(5) When the carrier ceases offering a product and replaces it with a product that complies with the requirements of this section, including renewability, and the superintendent finds that replacement is in the best interest of the policyholders; or

(6) A short-term, nonrenewable policy may be issued for a term not exceeding 12 months. A short-term policy may not be issued to replace a prior short-term policy if the combined term of the new policy and all prior successive short-term policies would exceed 12 months.

Sec. 5. 24-A MRSA §2736-C, sub-§7, as enacted by PL 1993, c. 477, Pt. C, §1 and affected by Pt. F, §1, is amended to read:

7. Applicability. This section applies to all policies, plans, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after December 1, 1993 with the exception of short-term contracts, as defined in section 2349, subsection 1. For purposes of this section, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 6. 24-A MRSA §2849-B, sub-§1, as amended by PL 1993, c. 477, Pt. A, §8 and affected by Pt. F, §1, is further amended to read:

1. Policies subject to this section. This section applies to all individual and group medical insurance policies except hospital indemnity, specified accident, specified disease, long-term care and, Medicare supplement and short-term policies issued by insurers or health maintenance organizations. For purposes of this section, a short-term policy is an individual, nonrenewable policy issued for a term that does not exceed 12 months.

Sec. 7. 24-A MRSA §2849-B, sub-§2, ¶A, as amended by PL 1993, c. 666, Pt. D, §4, is further amended to read:

A. That person was covered under an individual or group contract or policy, except for a short-term contract, issued by any nonprofit hospital or medical service organization, insurer, health maintenance 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 section 6052 or 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 policy under which the person is seeking coverage is the "succeeding policy." The group or individual contract or policy or the uninsured employee benefit plan that previously covered the person is the "prior contract or policy";

Sec. 8. 24-A MRSA §2849-B, sub-§8 is enacted to read:

8. Short-term insurance. A person eligible for continuity of coverage under subsection 2 may be allowed to purchase coverage under an individual, nonrenewable short-term policy. The issuance of a short-term policy is subject to the following conditions.

A. Upon offering an individual short-term policy for purchase, an insurer or the insurer's agent or broker must provide written disclosure of the terms and benefits of the policy. Specific disclosure that the short-term policy is not subject to any limitation on preexisting condition exclusions or the provisions of guaranteed renewal and continuity of coverage is required.

B. An insurer or the insurer's agent or broker may not issue a short-term policy that replaces a prior short-term policy if the combined term of the new policy and all prior successive policies exceed 12 months. All individuals making an application for coverage under a short-term policy must disclose any prior coverage under a short-term policy and the policy duration.

See title page for effective date.

CHAPTER 343

H.P. 489 - L.D. 670

An Act to Extend the Medical Liability Demonstration Project Deadline by 3 Years

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

Sec. 1. 24 MRSA §2975, sub-§4, as enacted by PL 1989, c. 931, §4, is amended to read:

4. Application. This section applies to causes of action accruing between January 1, 1992 and December 31, ~~1996~~ 1999.

Sec. 2. 24 MRSA §2977, as enacted by PL 1989, c. 931, §4, is amended to read:

§2977. Evidence; inadmissibility

Unless independently developed from a source other than the demonstration project, the practice

parameters and risk management protocols are not admissible in evidence in a lawsuit against any physician who is not a participant in the demonstration project or against any physician participating in the project who is defending against a cause of action accruing before January 1, 1992 or after December 31, 1996 1999.

Sec. 3. 24 MRSA §2978, sub-§1, ¶C, as amended by PL 1993, c. 189, §1, is further amended to read:

C. A report of each claim 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 2000, 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 2000. At the discretion of the Bureau of Insurance, reports must be provided until all claims are closed; and

Sec. 4. 24 MRSA §2978, sub-§2, as amended by PL 1993, c. 600, Pt. B, §21, is further amended to read:

2. Reports by Bureau of Insurance and Board of Licensure in Medicine. The Bureau of Insurance and the Board of Licensure in Medicine shall report the results of the project to the Governor and to the joint standing committees of the Legislature having jurisdiction over insurance and judiciary matters and to the Office of the Executive Director of the Legislative Council by December 1, 1997. An interim report is due by December 1, 1997. The final report is due by December 1, 2000. The ~~report~~ reports must include the following.

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.

B. The Board of Licensure in Medicine shall quantify and report on any identifiable impact of the project on the cost of the practice of defensive medicine.

(1) The Board of Licensure in Medicine shall establish an economic advisory committee to establish the methodology for evaluating the effect of the project on the cost, utilization and the practice of defensive medicine. The economic advisory committee shall report the methodology developed to the Board of Licensure in Medicine by January 1, 1992.

See title page for effective date.

CHAPTER 344

H.P. 645 - L.D. 868

An Act to Amend the Substance Abuse Testing Law

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

Sec. 1. 26 MRSA §685, sub-§2, ¶C, as amended by PL 1989, c. 832, §13, is further amended by amending subparagraph (1), divisions (a) and (b):

(a) Except to the extent that costs are covered by a group health insurance plan, the costs of the public or private rehabilitation program ~~shall~~ **must** be equally divided between the employer and employee if the employer has more than 20 full-time employees.