

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

B. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession while acting within the scope of their employment or agency;

C. Persons whose possession is for the purpose of aiding public officers in performing their official duties while acting within the scope of their employment or duties;

D. Law enforcement officers while acting within the scope of their employment and official duties; ~~and~~

E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs ~~or~~, controlled substances, or hypodermic apparatuses while acting within the course of their professional practice; and

F. With regard to the possession or furnishing of hypodermic apparatuses, persons authorized by the Bureau of Health pursuant to a hypodermic apparatus exchange program, certified under chapter 252-A while acting within the scope of their employment under such programs.

See title page for effective date.

CHAPTER 341

H.P. 969 - L.D. 1349

An Act to Reduce Insurance Premiums by Discouraging Insurance Fraud

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

Sec. 1. 24-A MRSA §2183, sub-§1, as enacted by PL 1987, c. 345, is amended to read:

1. Definition. For the purpose of this section, "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent of an insurer, any written statement as part of or in support of an application for the issuance of or the rating of an insurance policy for commercial insurance or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance ~~which he~~ the person knows to contain materially false information concerning any material fact or conceals, for the purpose of misleading, information concerning any material fact.

Sec. 2. 24-A MRSA §2183, sub-§3 is enacted to read:

3. Recovery costs. In a civil action in which it is proven that a person committed a fraudulent insurance act, the court may award reasonable attorney's fees and costs to the insurer. In a civil action in which the insurer alleges that a party committed a fraudulent insurance act that is not established at trial, the court may award reasonable attorney's fees and costs to the party if the allegation is not supported by any reasonable basis of law or fact.

See title page for effective date.

CHAPTER 342

H.P. 1128 - L.D. 1584

An Act Regarding Confidentiality of Information Concerning Residents of Certain Facilities

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

Sec. 1. 5 MRSA §19112, sub-§§2 and 3, as enacted by PL 1993, c. 738, Pt. B, §3 and affected by §9, are amended to read:

2. Evaluate allocation of resources. To evaluate on a continuing basis the allocation of resources to ensure the availability of quality services delivered in a coordinated and efficient manner that is consistent with the needs of children and families; ~~and~~

3. Develop coordinated policy. To continue the development of a comprehensive and coordinated approach to initiation and revision of policy affecting services to children and families; and

Sec. 2. 5 MRSA §19112, sub-§4 is enacted to read:

4. Informal information exchange. To develop a plan for the informal exchange of information among residential service providers, local law enforcement agencies and schools concerning children receiving residential services.

Sec. 3. 22 MRSA §7806 is enacted to read:

§7806. Confidentiality guidelines

As a condition of licensure under this subtitle, the department shall require entities described in section 7801, subsection 1, paragraphs A, A-1, B and C to develop policies for releasing nontreatment information about a resident to law enforcement agencies, schools, parents, guardians or other appropriate public agencies. The department shall establish

by rule a model resident information confidentiality policy for entities subject to this section. Rules adopted under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 343

H.P. 1156 - L.D. 1620

An Act to Amend the Laws Regarding Intervenor Status for Foster Parents in Certain Cases of the Department of Human Services

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

Sec. 1. 22 MRSA §4005-A, sub-§1, ¶A, as enacted by PL 1985, c. 424, is amended to read:

A. "Foster parent" means a person who has had a child in ~~his~~ that person's home for at least ~~one~~ year 120 days and who has received a license for a family foster home as defined in section 8101, subsection 3, or who is a relative.

See title page for effective date.

CHAPTER 344

H.P. 1306 - L.D. 1849

An Act to Clarify the Charitable Status of Nonprofit Hospital and Medical Service Organizations, to Permit Their Creation of Health Insurance Affiliates and Their Conversion to Stock Insurers and to Ensure Regulatory Equity

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

Sec. 1. 5 MRSA §194-A is enacted to read:

§194-A. Nonprofit hospital and medical service organizations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliate" means a person who directly or indirectly controls or is controlled by or is under common control with the person specified.

B. "Charitable authority" means the Attorney General's authority over charities under section 194, under the Attorney General's corresponding common law authority and under the Maine Nonprofit Corporation Act, Title 13-B.

C. "Charitable trust" means the entity described in subsection 5, paragraph B, subparagraph (1).

D. "Contract holder" means the employer, labor union, association, trustee, creditor or other entity to which a group contract evidencing coverage is issued.

E. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise unless the power is solely the result of an official position with or a corporate office held by the person.

F. "Conversion" means the process by which a nonprofit hospital and medical service organization, with the approval of the superintendent pursuant to Title 24, section 2301, subsection 9-D, converts to a domestic stock insurer.

G. "Fair market value" means the value of an organization or an affiliate or of the assets of such an entity determined, consistent with Title 24, section 2301, subsection 9-D, as if the entity had voting stock outstanding and 100% of its stock were freely transferrable and available for purchase without restrictions. In determining fair market value, consideration must be given to value as a going concern, market value, investment or earnings value, net asset value and a control premium, if any. If a charitable trust receives, at the time of conversion, 100% of the shares of the then-outstanding stock of the converted domestic stock insurer, the charitable trust is regarded as having acquired the fair market value of the organization unless the superintendent finds that such outstanding stock does not represent the fair market value of the organization.

H. "Health insurance affiliate" means any domestic for-profit stock insurer required to be authorized under Title 24-A, section 404 to provide health insurance or any domestic for-profit health maintenance organization required to be licensed under Title 24-A, chapter 56 that is formed, acquired, invested in or otherwise established, whether directly or indirectly, by a nonprofit hospital and medical service organization.