

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

(2) A district attorney responsible for prosecution in the municipality where the fraud occurred;

(3) The Federal Bureau of Investigation, or any other federal agency, only for the purposes of subsection 2;

(4) The State Fire Marshal;

(5) The Superintendent of Insurance;

(6) The Superintendent of Banking;

(7) The United States Attorney's office when authorized or charged with investigation or prosecution of the insurance fraud in question, only for the purposes of subsection 2;

(8) The State Police or local law enforcement officials; or

(9) The National Association of Insurance Commissioners.

C. "Fraudulent insurance act" has the same meaning as in section 2186, subsection 1, paragraph A.

D. "Insurer" has the same meaning as in section 2186, subsection 1, paragraph B.

2. Information disclosed. An authorized agency investigating insurance fraud may, in writing, require the insurance company at interest to release to the requesting agency any relevant information or evidence determined to be important to the authorized agency that the company may have in its possession relating to the insurance fraud in question. This information includes, but is not limited to:

A. A history of previous claims made by the insured;

B. Insurance policy information relevant to fraud under investigation and any application for that policy;

C. Material relating to the investigation of the loss including statements and proof of loss; and

D. Policy premium payment records.

3. Exchange of information. An authorized agency or insurer provided with information pursuant to this section may release or provide that information to any other authorized agency or insurer with an interest in the insurance fraud under investigation.

4. Right to receive upon request. Any insurer providing information to an authorized agency pursuant to this section has the right, upon request, to

receive other information relevant to the fraud from that authorized agency within 30 days.

5. Immunity. In the absence of fraud, malice or bad faith, any person, including, but not limited to, an insurer or authorized agency, that furnished information relating to suspected, anticipated or completed fraudulent insurance acts is not liable for any damages in any civil action for furnishing the information if that information is furnished to or received from an authorized agency. Nothing in this subsection is intended to abrogate or modify in any way any common law or statutory privilege or immunity previously enjoyed by any person.

6. Confidentiality. An authorized agency or insurer that receives any information pursuant to this section shall hold it in confidence and may not release the information, except to another authorized agency, until its release is required for a criminal or civil proceeding.

See title page for effective date.

CHAPTER 676

H.P. 1621 - L.D. 2251

An Act to Permit Direct Contracting with State Governmental Entities for the Provision of Services to Eligible Participants in Government Health Programs

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

Whereas, the State administers state and federally sponsored health programs; and

Whereas, it is in the best interests of the people of the State for the State to encourage maximum participation by managed care entities in these programs; and

Whereas, it is in the best interests of the people of the State for the State to manage the health care of program recipients and clients while offering reasonable choice within a competitive and cost-effective environment; 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. 22 MRSA §3173, as amended by PL 1997, c. 530, Pt. A, §34, is further amended by adding at the end a new paragraph to read:

The department may enter into contracts with health care servicing entities for the provision, financing, management and oversight of the delivery of health care services in order to carry out these programs. For the purposes of this section, "health care servicing entity" means a partnership, association, corporation, limited liability company or other legal entity that enters into a contract to provide or arrange for the provision of a defined set of health care services; to assume responsibility for some aspects of quality assurance, utilization review, provider credentialing and provider relations or other related network management functions; and to assume financial risk for provision of such services to recipients through capitation reimbursement or other risk-sharing arrangements. "Health care servicing entity" does not include insurers or health maintenance organizations. In all contracts with health care servicing entities, the department shall include standards, developed in consultation with the Superintendent of Insurance, to be met by the contracting entity in the areas of financial solvency, quality assurance, utilization review, network sufficiency, access to services, network performance, complaint and grievance procedures and records maintenance. Prior to contracting with any health care servicing entity, the department must have in place a memorandum of understanding with the Superintendent of Insurance for the provision of technical assistance, which must provide for the sharing of information between the department and the superintendent and the analysis of that information by the superintendent as it relates to the fiscal integrity of the contracting entity. The department may require periodic reporting by the health care servicing entity as to activities and operations of the entity, including the entity's activities undertaken pursuant to commercial contracts with licensed insurers and health maintenance organizations. The department may share with the Superintendent of Insurance all documents filed by the health care servicing entity, including documents subject to confidential treatment if that information is treated with the same degree of confidentiality as is required of the department.

Sec. 2. 24-A MRSA §10, sub-§2, as amended by PL 1997, c. 457, §8, is further amended to read:

2. Fraternal benefit societies, except as stated in chapter 55; ø

Sec. 3. 24-A MRSA §10, sub-§4, as amended by PL 1985, c. 399, §1, is further amended to read:

4. Unless otherwise expressly provided by this Title, a domestic insurer heretofore formed under a special Act of the Legislature, ~~where~~ when inconsistent with such special Act as heretofore amended;

Sec. 4. 24-A MRSA §10, sub-§§5 and 6 are enacted to read:

5. The government contracting activities of a health care servicing entity, as defined in Title 22, section 3173, contracting, whether directly or as a subcontractor, with the Department of Human Services, unless otherwise expressly provided by this Title. This Title may apply to other insurance or managed care activities of a health care servicing entity; or

6. The government contracting activities of a health care servicing entity, as defined in Title 34-B, section 1204, contracting, whether directly or as a subcontractor, with the Department of Mental Health, Mental Retardation and Substance Abuse Services, unless otherwise expressly provided by this Title. This Title may apply to any other insurance or managed care activities of a health care servicing entity.

Sec. 5. 34-B MRSA §1204, sub-§9 is enacted to read:

9. Contracts with health care servicing entities. The commissioner may enter into contracts with health care servicing entities for the financing, management and oversight of the delivery of mental health, mental retardation and substance abuse services to clients pursuant to a state or federally sponsored health program in which the department participates or administers. For the purposes of this subsection, "health care servicing entity" means a partnership, association, corporation, limited liability company or other legal entity that enters into a contract with the State to provide or arrange for the provision of a defined set of health care services; to assume responsibility for some aspects of quality assurance, utilization review, provider credentialing and provider relations or other related network management functions; and to assume financial risk for provision of such services to clients through capitation reimbursement or other risk-sharing arrangements. "Health care servicing entity" does not include insurers or health maintenance organizations. In contracting with health care servicing entities, the commissioner:

A. Shall include in all contracts with the health care servicing entities standards, developed in

consultation with the Superintendent of Insurance, to be met by the contracting entity in the areas of financial solvency, quality assurance, utilization review, network sufficiency, access to services, network performance, complaint and grievance procedures and records maintenance;

B. Prior to contracting with any health care servicing entity, must have in place a memorandum of understanding with the Superintendent of Insurance for the provision of technical assistance, which must provide for the sharing of information between the department and the superintendent and the analysis of that information by the superintendent as it relates to the fiscal integrity of the contracting entity;

C. May require periodic reporting by the health care servicing entity as to activities and operations of the entity, including the entity's activities undertaken pursuant to commercial contracts with licensed insurers and health maintenance organizations;

D. May share with the Superintendent of Insurance all documents filed by the health care servicing entity, including documents subject to confidential treatment if the information is treated with the same degree of confidentiality as is required of the department; and

E. May make all necessary rules for the administration of contracts with health care servicing entities. All rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

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

Effective April 2, 1998.

CHAPTER 677

S.P. 384 - L.D. 1243

An Act to Protect the Privacy of Genetic Information

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

Sec. 1. 5 MRSA c. 503 is enacted to read:

CHAPTER 503

USE OF GENETIC INFORMATION FOR EMPLOYMENT PURPOSES

§19301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Genetic characteristic. "Genetic characteristic" means any inherited gene or chromosome, or alteration of a gene or chromosome, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

2. Genetic information. "Genetic information" means the information concerning genes, gene products or inherited characteristics that may be obtained from an individual or family member.

3. Genetic test. "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as deoxyribonucleic acid, or DNA, ribonucleic acid, or RNA, or mitochondrial DNA, and tests of chromosomes or proteins in order to identify a predisposing genetic characteristic.

§19302. Employment discrimination on the basis of genetic information or genetic testing

1. Discrimination prohibited. An employer may not fail or refuse to hire, discharge or otherwise discriminate against an employee or applicant for employment with respect to the compensation, terms or conditions of employment on the basis of genetic information concerning that individual or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis that the individual received a genetic test or genetic counseling, except when based on a bona fide occupational qualification.

2. Enforcement; remedies. The Maine Human Rights Commission shall enforce this section. Violations of this section are subject to the remedies available under chapter 337, subchapters VI and VII.

Sec. 2. 24-A MRSA §2159-C is enacted to read:

§2159-C. Discrimination on the basis of genetic information or testing

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