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

4. Meetings and reports. The commission shall meet at least 4 times a year. The commission shall submit an annual report of activities to the Governor, the President of the Senate, the Speaker of the House of Representatives ~~and~~, the joint standing committee of the Legislature having jurisdiction over ~~energy and~~ natural resource matters and the joint standing committee of the Legislature having jurisdiction over utility and energy matters by February 15th of each year.

Sec. 8. 38 MRSA §1453-A, sub-§6, as amended by PL 1995, c. 333, §4, is further amended to read:

6. Staff assistance. The Department of Human Services and the department shall provide assistance to the commission in the conduct of its business. The State Nuclear Safety Advisor and the Public Advocate shall provide consultation as requested.

Sec. 9. Allocation and position authorization. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Commissioner of Environmental Protection may provide support to the Advisory Commission on Radioactive Waste and Decommissioning by contracted services or by the establishment of one part-time position by financial order and the line category transfer of funds. A position established by financial order terminates on the date of the final operating license termination of the Maine Yankee Atomic Power Plant by the Nuclear Regulatory Commission unless extended through legislative approval.

Sec. 10. Payment by Maine Yankee Atomic Power Plant. The Maine Yankee Atomic Power Plant shall pay $25,000 by July 1st of each year to the Department of Environmental Protection to support legislative allocations to the department associated with the Advisory Commission on Radioactive Waste and Decommissioning. Payments required under this section cease on the date of the final operating license termination of the Maine Yankee Atomic Power Plant by the Nuclear Regulatory Commission. Any unobligated balance remaining must be returned to the Maine Yankee Atomic Power Plant.

Sec. 11. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Maine Environmental Protection Fund

All Other	$25,000

Provides funds for staff support to the Advisory Commission on Radioactive Waste and Decommissioning.

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

Effective April 3, 1998.

CHAPTER 701

S.P. 761 - L.D. 2068

An Act to Permit Off-label Use of Prescription Drugs for Cancer, HIV or AIDS

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

Sec. 1. 24 MRSA §§2320-F and 2320-G are enacted to read:

§2320-F. Off-label use of prescription drugs for cancer

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

A. "Medically accepted indication" includes any use of a drug that has been approved by the federal Food and Drug Administration and includes another use of the drug if that use is supported by one or more citations in the standard reference compendia or if the nonprofit hospital and medical service organization involved, based upon guidance provided by the federal Department of Health and Human Services Medicare program pursuant to 42 United States Code, Section 1395x(t), determines that that use is medically accepted based on supportive clinical evidence in peer-reviewed medical literature.

B. "Off-label use" means the prescription and use of drugs for medically accepted indications other than those stated in the labeling approved by the federal Food and Drug Administration.

C. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that

present data that supports the proposed off-label use as generally safe and effective.

D. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All individual and group nonprofit hospital and medical services plan contracts and nonprofit health care plan contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Individual and group nonprofit hospital and medical services plan contracts and nonprofit health care plan contracts that provide coverage for prescription drugs may not exclude coverage for any such drug used for the treatment of cancer for a medically accepted indication on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as that use of that drug is a medically accepted indication for the treatment of cancer.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

§2320-G. Off-label use of prescription drugs for HIV or AIDS

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

A. "Off-label use" means the prescription and use of drugs for indications other than those stated in the labeling approved by the federal Food and Drug Administration.

B. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present data that supports the proposed off-label use as generally safe and effective.

C. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All individual and group nonprofit hospital and medical services plan contracts and nonprofit health care plan contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Individual and group nonprofit hospital and medical services plan contracts and nonprofit health care plan contracts that provide coverage for prescription drugs may not exclude coverage for any such drug used for the treatment of HIV or AIDS on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as that drug is recognized for the treatment of that indication in one of the standard reference compendia or in peer-reviewed medical literature.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 2. 24-A MRSA §§2745-E and 2745-F are enacted to read:

§2745-E. Off-label use of prescription drugs for cancer

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

A. "Medically accepted indication" includes any use of a drug that has been approved by the federal Food and Drug Administration and includes another use of the drug if that use is supported by one or more citations in the standard reference compendia or if the insurer involved, based upon guidance provided by the federal Department of Health and Human Services Medicare program pursuant to 42 United States Code, Section 1395x(t), determines that that use is medically accepted based on supportive clinical evidence in peer-reviewed medical literature.

B. "Off-label use" means the prescription and use of drugs for medically accepted indications other than those stated in the labeling approved by the federal Food and Drug Administration.

C. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present data that supports the proposed off-label use as generally safe and effective.

D. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All individual insurance policies and contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Individual insurance policies and contracts that provide coverage for prescription drugs may not exclude coverage for any such drug used for the treatment of cancer for a medically accepted indication on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as use of that drug is a medically accepted indication for the treatment of cancer.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

§2745-F. Off-label use of prescription drugs for HIV or AIDS

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

A. "Off-label use" means the prescription and use of drugs for indications other than those stated in the labeling approved by the federal Food and Drug Administration.

B. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present data that supports the proposed off-label use as generally safe and effective.

C. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All individual insurance policies and contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Individual insurance policies and contracts that provide coverage for prescription drugs may not exclude coverage for any such drug used for the treatment of HIV or AIDS on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as that drug is recognized for the treatment of that indication in one of the standard reference compendia or in peer-reviewed medical literature.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 3. 24-A MRSA §§2837-F and 2837-G are enacted to read:

§2837-F. Off-label use of prescription drugs for cancer

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

A. "Medically accepted indication" includes any use of a drug that has been approved by the federal Food and Drug Administration and includes another use of the drug if that use is supported by one or more citations in the standard reference compendia or if the insurer involved, based upon guidance provided by the federal Department of Health and Human Services Medicare program pursuant to 42 United States Code, Section 1395x(t), determines that that use is medically accepted based on supportive clinical evidence in peer-reviewed medical literature.

B. "Off-label use" means the prescription and use of drugs for medically accepted indications other than those stated in the labeling approved by the federal Food and Drug Administration.

C. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present data that supports the proposed off-label use as generally safe and effective.

D. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All group insurance policies and contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Group insurance policies and contracts that provide coverage for prescription drugs may not exclude coverage of any such drug used for the treatment of cancer for a medically accepted indication on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as that use of that drug is a medically accepted indication for the treatment of cancer.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

§2837-G. Off-label use of prescription drugs for HIV or AIDS

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

A. "Off-label use" means the prescription and use of drugs for indications other than those stated in the labeling approved by the federal Food and Drug Administration.

B. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present data that supports the proposed off-label use as generally safe and effective.

C. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All group insurance policies and contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Group insurance policies and contracts that provide coverage for prescription drugs may not exclude coverage of any such drug used for the treatment of HIV or AIDS on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as that drug is recognized for the treatment of that indication in one of the standard reference compendia or in peer-reviewed medical literature.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For

purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 4. 24-A MRSA §§4234-D and 4234-E are enacted to read:

§4234-D. Off-label use of prescription drugs for cancer

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

A. "Medically accepted indication" includes any use of a drug that has been approved by the federal Food and Drug Administration and includes another use of the drug if that use is supported by one or more citations in the standard reference compendia or if the health maintenance organization involved, based upon guidance provided by the federal Department of Health and Human Services Medicare program pursuant to 42 United States Code, Section 1395x(t), determines that that use is medically accepted based on supportive clinical evidence in peer-reviewed medical literature.

B. "Off-label use" means the prescription and use of drugs for medically accepted indications other than those stated in the labeling approved by the federal Food and Drug Administration.

C. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present data that supports the proposed off-label use as generally safe and effective.

D. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All health maintenance organization individual and group contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Health maintenance organization individual and group contracts that provide coverage for prescription drugs may not exclude coverage of any such drug used for the treatment of cancer for a medically accepted indication on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as that use of that drug is a medically accepted indication for the treatment of cancer.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

§4234-E. Off-label use of prescription drugs for HIV or AIDS

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

A. "Off-label use" means the prescription and use of drugs for indications other than those stated in the labeling approved by the federal Food and Drug Administration.

B. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present data that supports the proposed off-label use as generally safe and effective.

C. "Standard reference compendia" means:

(1) The United States Pharmacopeia Drug Information or information published by its successor organization; or

(2) The American Hospital Formulary Service Drug Information or information published by its successor organization.

2. Required coverage for off-label use. All health maintenance organization individual and group contracts that provide coverage for prescription drugs must provide coverage for off-label use in accordance with the following.

A. Health maintenance organization individual and group contracts that provide coverage for prescription drugs may not exclude coverage of any such drug used for the treatment of HIV or AIDS on the grounds that the drug has not been approved by the federal Food and Drug Administration for that indication, as long as that drug is recognized for the treatment of that indication in one of the standard reference compendia or in peer-reviewed medical literature.

B. Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

C. This subsection may not be construed to require coverage for a drug when the federal Food and Drug Administration has determined its use to be contraindicated for treatment of the current indication.

D. A drug use that is covered pursuant to paragraph A may not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

E. A contract that provides coverage of a drug as required by this subsection may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the same extent that these provisions are applicable to coverage of all prescription drugs and are not inconsistent with the requirements of this subsection.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1999. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 702

H.P. 1494 - L.D. 2093

An Act Relating to the Protection of Maine Consumers in the Telecommunications Market

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

Whereas, it is necessary that the State immediately prohibit misleading and abusive market practices by telecommunications carriers; and

Whereas, the Public Utilities Commission lacks authority to take effective consumer protection measures to protect Maine telecommunications consumers; 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. 35-A MRSA §7106 is enacted to read:

§7106. Consumer protection

1. Unauthorized change of carrier. This subsection governs the initiation of a change in a customer's local or intrastate interexchange carrier that is not authorized by that consumer.

A. Except as otherwise provided by the commission by rule adopted pursuant to subsection 3, no local or intrastate interexchange carrier may initiate the change of a customer's local or intrastate carrier unless the change is verified by one of the following methods:

(1) Written authorization from the customer;

(2) Toll-free electronic authorization placed from the telephone number that is the subject of the change order; or

(3) Oral authorization obtained by an independent 3rd party.

B. When a customer's service is changed to a new local or intrastate interexchange carrier, the new local or intrastate interexchange carrier shall maintain for 12 months a record of nonpublic