

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

Beginning September 1, 1999, approval under chapters 501 and 502 is subject to the provisions of this section. Fingerprinting of applicants for approval, conducting of the needed state and national criminal history record checks by the State Bureau of Identification and forwarding of the results by the bureau to the department must begin on September 1, 1999.

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

Effective March 29, 1999.

## CHAPTER 36

### S.P. 48 - L.D. 119

#### **An Act to Make Maine Medicare Supplement Insurance Laws Consistent with Federal Laws**

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

**Whereas,** the United States Congress enacted and the President signed the Balanced Budget Act of 1997; and

**Whereas,** portions of that law preempt conflicting state laws; and

**Whereas,** it is in the best interest of the people of Maine for the State to retain its ability to regulate its Medicare supplement insurance market; 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. 24-A MRSA §2849-B, sub-§1,** as amended by PL 1997, c. 370, Pt. C, §4, is further amended to read:

**1. Policies subject to this section.** This section applies to all individual, group and blanket medical insurance policies except hospital indemnity, specified accident, specified disease, long-term care 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.

This section does not apply to Medicare supplement policies as defined in section 5001, subsection 4.

**Sec. 2. 24-A MRSA §2849-B, sub-§2, ¶¶A and B,** as amended by PL 1997, c. 445, §25 and affected by §32, are further amended to read:

A. That person was covered under an individual or group contract or policy issued by any non-profit 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, including, but not limited to, those listed in section 2848, subsection 1-B, paragraph A, subparagraphs (3) to (10). 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"; and

B. Coverage under the prior contract or policy terminated:

(1) Within 180 days before the date the person enrolls or is eligible to enroll in the succeeding contract if:

(a) Coverage was terminated due to unemployment, as defined in Title 26, section 1043;

(b) The person was eligible for and received unemployment compensation benefits for the period of unemployment, as provided under Title 26, chapter 13; and

(c) The person is employed at the time replacement coverage is sought under this provision; or

(2) Within 90 days before the date the person enrolls or is eligible to enroll in the succeeding contract.

A period of ineligibility for any health plan imposed by terms of employment may not be considered in determining whether the coverage ended within a time period specified under this section; ~~or~~.

**Sec. 3. 24-A MRSA §2849-B, sub-§2, ¶D,** as enacted by PL 1997, c. 445, §25 and affected by §32, is repealed.

**Sec. 4. 24-A MRSA §5002-B** is enacted to read:

**§5002-B. Continuity of coverage****1. Persons provided continuity of coverage.**

This section provides continuity of coverage for a person who seeks coverage under a Medicare supplement policy if:

A. That person was previously covered under a Medicare supplement policy issued by the same or a different carrier. For purposes of this section, the Medicare supplement policy under which the person is seeking coverage is the "succeeding policy." The Medicare supplement policy that previously covered the person is the "prior policy";

B. Coverage under the prior Medicare supplement policy terminated within 90 days before the date the person applies for the succeeding policy; and

C. The prior policy was issued during the insured's open enrollment period or was issued to replace another Medicare supplement policy and the insured had continuous coverage beginning in the insured's open enrollment period with no gap in coverage in excess of 90 days. For purposes of this section, any Medicare supplement policy that covered the person before the prior policy is an "earlier policy."

**2. Prohibition against discontinuity.** The insurer shall, for any person described in subsection 1, waive any medical underwriting or preexisting conditions exclusion to the extent that benefits would have been payable under the prior policy and any earlier policy if those policies were still in effect. This subsection does not require the succeeding insurer to pay any benefits that are not within the terms of coverage of the succeeding policy solely because they would have been paid by the prior policy.

**3. Determination of benefits.** When a determination of benefits under the prior policy is required, the issuer of the prior policy shall, at the request of the issuer of the succeeding policy, furnish a statement of benefits available or pertinent information sufficient to permit verification of the benefit determination or the determination itself by the issuer of the succeeding policy. For purposes of this section, benefits of the prior policy are determined in accordance with the definitions, conditions and covered expense provisions of that policy rather than those of the succeeding policy. The benefit determination must be made as if coverage had not been replaced.

**4. Rulemaking.** The superintendent shall adopt rules concerning guaranteed issuance and continuity of Medicare supplement policies for certain eligible persons. Rules adopted pursuant to this subsection are

routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 5. 24-A MRSA §5015**, as enacted by PL 1997, c. 370, Pt. D, §1, is repealed.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect April 28, 1999.

Effective April 28, 1999.

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## CHAPTER 37

### S.P. 152 - L.D. 472

#### An Act to Amend the Revised Maine Securities Act

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

**Sec. 1. 32 MRSA §10301, sub-§2**, as amended by PL 1997, c. 168, §1, is further amended to read:

**2. Employment of unlicensed persons.** It is unlawful for any issuer or broker-dealer ~~licensed under this Act~~ to employ or contract with a person as a sales representative in this State unless the sales representative is licensed or exempt from licensing under this Act.

**Sec. 2. 32 MRSA §10301, sub-§3**, as amended by PL 1989, c. 542, §8, is further amended to read:

**3. Employment of suspended or barred persons.** It is unlawful for a broker-dealer, investment adviser or an issuer engaged in offering securities in this State in connection with any of the broker-dealer's, investment adviser's or issuer's securities activities in this State to employ or contract with any person who is then suspended or barred from association with a broker-dealer or investment adviser by the administrator. No broker-dealer, investment adviser or issuer may be deemed to have violated this subsection if the broker-dealer, investment adviser or issuer sustains the burden of proof that the broker-dealer, investment adviser or issuer did not know and in the exercise of reasonable care could not have known of the suspension or bar. Upon request from a broker-dealer, investment adviser or issuer and for good cause shown, the administrator, by order, may waive the prohibition of this subsection with respect to a particular person then suspended or barred.

**Sec. 3. 32 MRSA §10302, sub-§2, ¶A-2** is enacted to read: