

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.

J.S. McCarthy Company
Augusta, Maine
1999

Sec. 6. 12 MRSA §7406, sub-§2, as enacted by PL 1979, c. 420, §1, is repealed.

See title page for effective date.

CHAPTER 221

S.P. 714 - L.D. 2036

An Act to Prohibit Deceptive Charitable Solicitations

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

Sec. 1. 9 MRSA §5003, sub-§3, as enacted by PL 1977, c. 488, §1, is amended to read:

3. Commercial co-venturer. "Commercial co-venturer" ~~shall mean~~ means any person who, for profit or other commercial consideration, ~~shall conduct, promote, underwrite, arrange or sponsor~~ conducts, promotes, underwrites, arranges or sponsors a sale, performance, collection or sale of donated goods or event of any kind ~~which that~~ is advertised in conjunction with the name of any charitable organization. Any such person who will benefit in good will only ~~shall~~ may not be ~~deemed~~ considered a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance or event are supervised and controlled by the benefiting charitable organization.

Sec. 2. 9 MRSA §5005, sub-§5 is enacted to read:

5. Proceeds from the solicitation of goods involving a commercial co-venturer. If a charitable organization employs a commercial co-venturer for the purpose of soliciting goods through the placement of containers in public places, that charitable organization shall file annually the following information:

A. The total money raised from contributions collected during the year; and

B. Out of the funds raised from contributions, the total dollars that have been or will be expended for:

- (1) Program services;
- (2) Payments to commercial co-venturers; and
- (3) Management.

Sec. 3. 9 MRSA §5012, as repealed and replaced by PL 1989, c. 55, §4, is amended by adding at the end a new paragraph to read:

A charitable organization that employs a commercial co-venturer to solicit goods through the placement of containers in public places shall post the disclosure required in this section in writing that is clearly visible to a person placing a contribution in the container.

Sec. 4. 9 MRSA §5012-A is enacted to read:

§5012-A. Deceptive practices in the solicitation of goods

A commercial co-venturer who is engaged in the solicitation of goods is guilty of a deceptive and prohibited practice if that commercial co-venturer charges a charitable organization a sum of money for the goods and the co-venturer's services in the collection of those goods that far exceeds the fair market value of those goods and services. Such an action constitutes a fraud against the charity and its donors. Fair market value may be established in any commercially acceptable fashion including a comparison of the amount paid for similar goods and services by a similar charity.

See title page for effective date.

CHAPTER 222

S.P. 584 - L.D. 1664

An Act to Clarify Basic Health Care Services to be Offered by Maine Health Maintenance Organizations

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

Whereas, this legislation is immediately necessary to ensure that health maintenance organizations and employers are able to vary particular coverages and copayment requirements to respond to particular needs and market factors; 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 §4202-A, sub-§1, as enacted by PL 1991, c. 709, §2, is amended to read:

1. Basic health care services. "Basic health care services" means health care services that an

enrolled population might reasonably require in order to be maintained in good health, ~~including and includes~~, at a minimum, emergency care, inpatient hospital care, ~~inpatient-outpatient inpatient~~ physician services, ~~outpatient physician services~~, ancillary services such as x-ray services and laboratory services and all benefits mandated by statute and mandated by rule applicable to health maintenance organizations. The superintendent may adopt rules defining "basic health care services" to be provided by health maintenance organizations. In adopting such rules, the superintendent shall consider the coverages that have traditionally been provided by health maintenance organizations; the need for flexibility in the marketplace; and the importance of providing multiple options to employers and consumers. The superintendent may not require that all health benefit plans offered by health maintenance organizations meet or exceed each of the particular requirements of standard or basic health plans specified in Bureau of Insurance Rule, Chapter 750. The superintendent may select required services from among those set forth in Bureau of Insurance Rule, Chapter 750 and shall permit reasonable, but not excessive or unfairly discriminatory, variations in the copayment, coinsurance, deductible and other features of such coverage, except that these features must meet or exceed those required in benefits mandated by statute. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. 24-A MRSA §4204, sub-§2-A, ¶O is enacted to read:

O. Each health maintenance organization shall provide basic health care services.

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

Effective May 18, 1999.

CHAPTER 223

H.P. 1233 - L.D. 1762

**An Act to Clarify the Law
Concerning Representations Made in
Insurance Contracts**

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

Sec. 1. 24-A MRSA §2411, as enacted by PL 1969, c. 132, §1, is amended to read:

§2411. Representations in applications

All statements and descriptions in any application for insurance or for an annuity contract, by or in behalf of the insured or annuitant, ~~shall be~~ are deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements ~~shall may~~ not prevent a recovery under the policy or contract unless either:

1. Fraudulent; or

2. Material either to the acceptance of the risk, or to the hazard assumed by the insurer; ~~or~~, such that the insurer in good faith would either not have issued the insurance or contract, or would not have issued it at the same premium rate, or would not have issued insurance in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

~~3. The insurer in good faith would either not have issued the insurance or contract, or would not have issued it at the same premium rate, or would not have issued insurance in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.~~

To prevent a recovery under this section for any application for life, credit life, disability, long-term care, accidental injury, specified disease, hospital indemnity or credit or accident insurance, an insurer need only prove one of the acts described in this section, not an act under subsections 1 and 2.

See title page for effective date.

CHAPTER 224

S.P. 247 - L.D. 669

**An Act to Change Certified Public
Accountant Experience
Requirements for Employees of the
Department of Audit**

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

Sec. 1. 32 MRSA §12228, sub-§10, as amended by PL 1997, c. 526, §14, is further amended to read:

10. Experience. During the 5-year period immediately following October 1, 1997, the applicant shall show that the applicant has had 2 years of experience in the practice of public accountancy or its equivalent, meeting requirements prescribed by the