

# 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**

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.

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**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.

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**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

board by rule; or, if the applicant's educational qualifications include, a masters degree conferred by a college or university approved by the board, then only one year of experience in that practice or its equivalent is required. After October 1, 2002, for initial issuance of a certificate under this subsection, an applicant shall demonstrate 2 years of experience that was under the direction of a licensee under this subchapter and shall meet the other requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. To the extent the applicant's experience is as ~~an auditor engaged in the examination of financial statements for the Department of Audit~~ or as a revenue agent or in a similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Revenue Services, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

- A. Examinations are performed in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners;
- B. Working papers prepared by the examiners are in conformity with generally accepted auditing standards and are subject to a review by a supervisor who must be a certified public accountant;
- C. Written reports of examination are prepared in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners. All examiners working on the examinations must participate in the preparation of the report;
- D. Reports of examination are prepared in accordance with statutory accounting principles. All examiners working on the examinations must participate in the preparation of the financial statements and corresponding note disclosures; and
- E. All examiners assigned to an examination must participate in the planning of the examination and the planning phase conforms to the Ex-

aminers' Handbook and generally accepted auditing standards.

See title page for effective date.

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## CHAPTER 225

S.P. 639 - L.D. 1806

### **An Act to Clarify the Definition and Licensure of Insurance Consultants, Financial Planners and Investment Advisors**

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

**Sec. 1. 24-A MRSA §1402, sub-§4, ¶¶B and C**, as enacted by PL 1997, c. 457, §23 and affected by §55, are repealed.

**Sec. 2. 24-A MRSA §1402, sub-§4, ¶D**, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

D. "Consultant" does not include:

- (1) An attorney licensed to practice who is actively practicing law in this State;
- (2) An insurance actuary and member or associate of the Society of Actuaries or American Academy of Actuaries;
- (3) A public accountant certified under Title 32, chapter 113 or a certified public accountant who is certified under Title 32, chapter 113 and in active public practice; ~~or~~
- (4) A licensed insurance producer who receives a fee in lieu of a commission pursuant to section 1450 if the insurance producer receives a fee for the insurance transaction and not for other services provided; ~~or~~
- (5) A financial institution or a financial institution holding company if the insurance advice is given as part of its trust department rendering insurance advice in a fiduciary capacity; ~~or~~
- (6) A person authorized to act as or on behalf of an investment advisor in accordance with Title 32, section 10303 and 10304, subsection 2-A to the extent such activities entail providing insurance advice incidental to financial planning advice.