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OF THE

STATE OF MAINE

AS PASSED BY THE

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not limited to, research, scholarships, construction or development.

See title page for effective date.

CHAPTER 87

H.P. 748 - L.D. 967

An Act to Waive Immunization Requirements for Students Participating in Distance Programs

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

Sec. 1. 20-A MRSA §6359, as amended by PL 1991, c. 146, §§1 to 4, is further amended by adding at the end a new paragraph to read:

A student who is enrolled in a distance education program offered by a school and who does not physically attend any classes or programs at a school facility, including a campus, center or site of that school, or at a school facility, including a campus, center or site of any other school, is exempt from the provisions of this section.

See title page for effective date.

CHAPTER 88

S.P. 387 - L.D. 1284

An Act Related to the Financial Regulation of Health Maintenance Organizations

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

Sec. 1. 24-A MRSA §4204, sub-§4, ¶F is enacted to read:

F. The superintendent may require a health maintenance organization to continue to maintain the deposit required under this subsection after the health maintenance organization has withdrawn from the market in accordance with section 415-A.

Sec. 2. 24-A MRSA §4204, sub-§6, ¶C is enacted to read:

C. In addition to the other provisions in this subsection, if a petition to liquidate an insolvent health maintenance organization is filed with a court of competent jurisdiction, then after the date of filing the petition for liquidation:

(1) Any provider who has rendered a covered service for a subscriber or enrollee of the insolvent health maintenance organization is prohibited from collecting or attempting to collect from the subscriber or enrollee amounts normally payable by the insolvent health maintenance organization; and

(2) A provider or agent, trustee or assignee of the provider may not maintain any action at law against a subscriber or enrollee of the insolvent health maintenance organization to collect amounts for covered services normally payable by the insolvent health maintenance organization.

Nothing in this subsection prohibits a provider from collecting or attempting to collect from a subscriber or enrollee any amounts for services not normally payable by the insolvent health maintenance organization, including applicable copayments or deductibles.

Sec. 3. 24-A MRSA §4204-A, sub-§2, ¶C, as enacted by PL 1989, c. 842, §14, is amended to read:

C. An amount equal to the sum of 3 months uncovered health care expenditures as reported on the financial statement covering the health maintenance organization's immediately preceding fiscal year as filed with the superintendent; ~~or~~

Sec. 4. 24-A MRSA §4204-A, sub-§2, ¶D, as enacted by PL 1989, c. 842, §14, is repealed and the following enacted in its place:

D. An amount equal to 8% of annual health care expenditures, except those paid on a capitated basis as reported on the financial statement covering the health maintenance organization's immediately preceding fiscal year as filed with the superintendent; or

Sec. 5. 24-A MRSA §4204-A, sub-§2, ¶E is enacted to read:

E. An amount equal to the company action level risk-based capital as defined in chapter 79.

Sec. 6. 24-A MRSA §4222-B, sub-§§5 and 6, as enacted by PL 1995, c. 332, Pt. O, §8, are amended to read:

5. The requirements of section 222, subsections 2 to 9, subsections 11-A and 11-B and subsections 13 to 18 apply to domestic health maintenance organizations.

6. The requirements of chapter 57, subchapters I and II apply to ~~domestic~~ health maintenance organizations.

Sec. 7. 24-A MRSA §4222-B, sub-§§15 and 16 are enacted to read:

15. The requirements of section 415-A apply to health maintenance organizations.

16. The requirements of sections 3483 and 3484 apply to health maintenance organizations.

Sec. 8. 24-A MRSA §4231, as amended by PL 1995, c. 332, Pt. O, §10, is further amended to read:

§4231. Insolvency or withdrawal; alternative coverage

1. Continuation of coverage by other carriers. In the event of an insolvency of a health maintenance organization and if satisfactory arrangements for the performance of its obligations have not been made as provided for in section 4214, all other carriers that made an offer of coverage to any group contract holder of the insolvent health maintenance organization at the most recent purchase or renewal of coverage, upon order of the superintendent, shall offer the enrollees in the group covered by that contract a 30-day enrollment period that begins on the date of insolvency.

Each carrier shall offer the group's enrollees the same coverage and rates that the carrier had offered to those enrollees at the most recent purchase or renewal of coverage prior to the insolvency, except that a successor health maintenance organization may increase the group's rate to the extent justified by including the new enrollees in a recalculation of rates using the existing method of rate calculation of the successor carrier or, if the group was covered under a multiple-year contract, to the extent justified to take into account increased health care costs, as approved by the superintendent.

2. Allocation of enrollees. If no other carrier had offered coverage to a group contract holder in the insolvent health maintenance organization, or if the superintendent determines that the other health benefit plan or plans lack sufficient health care delivery resources to ensure that health care services will be available and reasonably accessible to all of that group's enrollees in the insolvent health maintenance organization, then the superintendent shall allocate equitably the insolvent health maintenance organization's group contracts among all health maintenance organizations that operate within a portion of the insolvent health maintenance organization's service area, taking into consideration the health care delivery resources of each health maintenance organization. Each health maintenance organization to which a group or groups are so allocated shall offer such group or groups the health maintenance organization's existing coverage that is most similar to each group's coverage with the insolvent health maintenance organization at rates determined in accordance with the successor health maintenance organization's existing rating methodology.

Sec. 9. 24-A MRSA §4231, sub-§4 is enacted to read:

4. Allocation upon withdrawal. If any group contract holder of a withdrawing health maintenance organization is unable to obtain replacement coverage subsequent to a withdrawal pursuant to section 415-A, the superintendent may allocate equitably the withdrawing health maintenance organization's group contract holders among all health maintenance organizations that operate within a portion of the withdrawing health maintenance organization's service area in accordance with subsection 2.

Sec. 10. 24-A MRSA §4351, sub-§§4 and 5, as enacted by PL 1969, c. 132, §1, are amended to read:

4. All persons in process of organization, or holding themselves out as organizing, or proposing to organize in this State for the purpose of becoming an insurer; ~~and~~

5. All other persons as to whom such provisions are otherwise expressly made applicable by law~~.~~; and

Sec. 11. 24-A MRSA §4351, sub-§6 is enacted to read:

6. Health maintenance organizations, which are considered insurers for the purposes of this subchapter and subchapter II.

Sec. 12. 24-A MRSA §4379, sub-§§1, 3 and 4, as enacted by PL 1969, c. 132, §1, are amended to read:

1. Administration costs. The costs and expenses of administration, including but not limited to the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees. Any provider or member claims for covered services under a health maintenance organization contract, including a point-of-service contract, incurred between the date a petition of liquidation is filed and the date coverage terminates may be treated as administration costs under this subsection.

3. Loss claims. All claims under policies for losses incurred, including third party claims, and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property ~~which~~ that are not under policies, except the first $200 of losses otherwise payable to any claimant under this subsection. All claims under life insurance policies and annuity contracts, whether for death proceeds, annuity proceeds or investment values, ~~shall~~ must be treated as loss claims. Claims ~~shall~~ may not be cumulated by assignment to avoid application of the $200 deductible provision. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant ~~shall~~ may not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to ~~his~~ an employee ~~shall~~ may be treated as a gratuity. Any provider or member claims for covered services under a health maintenance organization contract, including a point-of-service contract, not paid under subsection 1 are included in this class.

4. Unearned premiums and small loss claims. Claims under nonassessable policies for unearned premiums or other premium refunds and the first $200 or loss excepted by the deductible provision in subsection 3, except that, if the receiver fails to prorate a premium due to the insurer based on a termination of coverage under this chapter, any resulting unearned premium must be paid to the insured under subsection 1 as an expense of the administration.

See title page for effective date.

CHAPTER 89

H.P. 873 - L.D. 1152

An Act to Amend the Standard Valuation Law for Life Insurance and to Restrict Limitation of Liability for Death by Suicide in Group Life Insurance Policies

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

Sec. 1. 24-A MRSA §952-A, sub-§4, ¶H, as enacted by PL 1993, c. 634, Pt. B, §1 and affected by §4, is repealed and the following enacted in its place:

H. Except as provided in paragraphs K, L and M, any memorandum in support of the opinion and any other documents, materials or other information provided by the insurer to the superintendent in connection with the memorandum must be kept confidential by the superintendent and are not public records within the meaning of the freedom of access laws and are not subject to subpoena or discovery, nor admissible in evidence in any private civil action. The superintendent is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties.

Sec. 2. 24-A MRSA §952-A, sub-§4, ¶¶I to M are enacted to read:

I. Neither the superintendent nor any person who received documents, materials or other information while acting under the authority of the superintendent is permitted or required to testify in any private civil action concerning any confidential documents, materials or information pursuant to paragraph H.

J. Disclosure to the superintendent under this section or as a result of sharing of documents, materials or other information pursuant to section 216 does not constitute a waiver of any applicable privileges or claim of confidentiality in the documents, materials or other information.

K. A memorandum in support of the opinion, and any other documents, materials or other information provided by the life insurer to the superintendent in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action pursuant to this section or by rule adopted pursuant to this section.

L. The memorandum or other documents, materials or other information may otherwise be released by the superintendent with the written consent of the life insurer or upon a written request by the American Academy of Actuaries stating that the memorandum or other documents, materials or other information is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the superintendent for preserving the confidentiality of the memorandum or other documents, materials or other information.

M. Once any portion of a memorandum is cited by the life insurer in its marketing or is cited by the life insurer before a governmental agency other than a state insurance agency or is released by the life insurer to the news media, all portions of the memorandum become public records.

Sec. 3. 24-A MRSA §2630 is enacted to read: