

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

An applicant claiming an exemption under this paragraph shall publish a notice of that application in a newspaper of general circulation in the region that includes the municipality in which the development is proposed to occur. That notice must include a statement indicating the standard or standards for which the applicant is claiming an exemption.

See title page for effective date.

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## CHAPTER 407

H.P. 1027 - L.D. 1384

### An Act to Make Active Public Health Investigation Records Confidential

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

**Sec. 1. 22 MRSA §42, sub-§5**, as enacted by PL 1993, c. 295, §1, is amended to read:

**5. Confidentiality of records containing certain medical information.** Department records that contain personally identifying medical information that are created or obtained in connection with the department's public health activities or programs are confidential. These records include, but are not limited to, information on genetic, communicable, occupational or environmental disease entities, and information gathered from public health nurse activities, or any program for which the department collects personally identifying medical information.

The department's confidential records may not be open to public inspection, are not public records for purposes of Title 1, chapter 13, subchapter I and may not be examined in any judicial, executive, legislative or other proceeding as to the existence or content of any individual's records obtained by the department.

Exceptions to this subsection include release of medical and epidemiologic information in such a manner that an individual can not be identified; disclosures that are necessary to carry out the provisions of chapter 250; disclosures made upon written authorization by the subject of the record, except as otherwise provided in this section; and disclosures that are specifically provided for by statute or by departmental rule.

Nothing in this subsection precludes the department, during the data collection phase of an epidemiologic investigation, from refusing to allow the inspection or copying of any record or survey instrument, including any redacted record or survey instrument, containing information pertaining to an identifiable individual

that has been collected in the course of that investigation. The department's refusal is not reviewable.

See title page for effective date.

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## CHAPTER 408

S.P. 97 - L.D. 323

### An Act Concerning Patient Access to Eye Care Providers

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

**Sec. 1. 24-A MRSA §4314** is enacted to read:

#### §4314. Access to eye care providers

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

A. "Eye care provider" means a participating provider who is an optometrist licensed to practice optometry pursuant to Title 32, chapter 34-A, or an ophthalmologist licensed to practice medicine pursuant to Title 32, chapter 48.

B. "Eye care services" means those urgent health care services related to the examination, diagnosis, treatment and management of conditions, illnesses and diseases of the eye and related structures that are provided to treat conditions, illnesses or diseases of the eye that if not treated within 24 hours present a serious risk of harm.

**2. Coverage of eye care services.** A carrier that provides coverage for eye care services as part of a health plan shall provide coverage for eye care services in accordance with the following.

A. An enrollee may receive eye care services from an eye care provider participating in the enrollee's health plan without the prior approval or authorization of the enrollee's primary care provider for a maximum of 2 visits, one initial visit and one follow-up visit, for each occurrence requiring urgent care as described in subsection 1, paragraph B. A carrier may not retrospectively deny coverage under this section on the basis that the eye care services received by the enrollee did not meet the requirements of subsection 1, paragraph B. In order to receive continuing benefits for treatment related to the initial visit, an enrollee must receive the approval of the enrollee's primary care provider for any visit after the 2nd visit. Within 3 working days of the initial visit, the eye care provider shall send to the enrollee's primary care provider a report containing the en-

rollee's complaint, related history, examination results, initial diagnosis and recommendations for treatment. If the eye care provider does not send a report to the primary care provider within 3 working days, the carrier is not obligated to provide benefits for the self-referred visits under this paragraph and the enrollee is not liable to the eye care provider for any unpaid fees.

B. A carrier shall ensure that all eye care providers participating in the carrier's health plans are included on any publicly accessible list of participating providers for the carrier.

C. A carrier shall allow each eye care provider participating in the carrier's health plans to furnish covered eye care services to enrollees without discrimination between classes of eye care providers and to provide the eye care services permitted by the eye care provider's license.

**3. Prohibitions.** A carrier may not:

A. Impose a deductible or coinsurance for eye care services that is greater than the deductible or coinsurance imposed for other health care services under a health plan; or

B. Require an eye care provider to hold hospital privileges as a condition of participation as a provider under a health plan.

**4. Construction.** This section may not be construed as:

A. Requiring coverage for routine eye examinations;

B. Creating coverage for any health care service that is not otherwise covered under the terms of a health plan;

C. Requiring a carrier to include as a participating provider every willing provider or health care professional who meets the terms and conditions of a health plan;

D. Preventing an enrollee from seeking eye care services from the enrollee's primary care provider in accordance with the terms of the enrollee's health plan;

E. Increasing or decreasing the scope of practice of optometry or ophthalmology as defined in Title 32;

F. Requiring eye care services to be provided in a hospital or similar health care facility; or

G. Notwithstanding the definition of eye care services in subsection 1, paragraph B, prohibiting a carrier from requiring an enrollee to receive

prior approval or authorization from a primary care provider for any subsequent surgical procedures.

**Sec. 2. Application.** The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State by a health insurance carrier that provides coverage for eye care services on or after January 1, 2002. For purposes of this Act, all policies, contracts and certificates are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

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## CHAPTER 409

H.P. 1166 - L.D. 1566

### An Act to Improve Pension Benefits for Employees in the Department of Environmental Protection

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

**Sec. 1. 5 MRSA §17851-A, sub-§1, ¶¶J and K,** as enacted by PL 1999, c. 493, §6, are amended to read:

J. Law enforcement officers in the employment of the Baxter State Park Authority on January 1, 2000 or hired thereafter; and

K. The State Fire Marshal or a state fire marshal investigator or state fire marshal inspector in the employment of the Department of Public Safety on January 1, 2000 or hired thereafter; and

**Sec. 2. 5 MRSA §17851-A, sub-§1, ¶L** is enacted to read:

L. Oil and hazardous materials emergency response workers in the employment of the Department of Environmental Protection, Division of Response Services who participate in a standby rotation on January 1, 2002 or are hired thereafter.

**Sec. 3. 5 MRSA §17851-A, sub-§2,** as amended by PL 1999, c. 493, §7, is further amended to read:

**2. Qualification for benefits.** A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 for employees identified in subsection 1, paragraphs A to H ~~and~~, after December 31, 1999 for employees identified in subsection 1, paragraphs I to K, and any