

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

**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**  
**2002**

Health care coverage through the plan must be available to enrolled employers and their employees beginning January 1, 2004.

### **§3169. Repeal**

This chapter is repealed December 31, 2008.

**Sec. 2. 22 MRSA §8702, sub-§11**, as enacted by PL 1995, c. 653, Pt. A, §2 and affected by §7, is amended to read:

**11. Third-party payor.** "Third-party payor" means a health insurer, nonprofit hospital, medical services organization or managed care organization licensed in the State or the plan established in chapter 854. Third-party payor does not include carriers licensed to issue limited benefit health policies or accident, specified disease, vision, disability, long-term care, nursing home care or Medicare supplement policies.

**Sec. 3. Report to Legislature.** The Board of Directors of the Maine Small Business Health Coverage Plan shall submit an interim report on the development of the business plan developed pursuant to the Maine Revised Statutes, Title 22, section 3162, subsection 4 to the joint standing committee of the Legislature having jurisdiction over health insurance matters no later than November 30, 2002. The board shall submit its final business plan to the joint standing committee of the Legislature having jurisdiction over health insurance matters no later than December 31, 2002. The joint standing committee shall review and comment on the business plan no later than March 1, 2003. The committee shall report out legislation to the First Regular Session of the 121st Legislature approving the board's business plan and affirming the Legislature's enactment of Title 22, chapter 854. If, before adjournment of the First Regular Session, the Legislature fails to act on the business plan submitted to it for approval, the board may implement the business plan and begin operation of the Maine Small Business Health Coverage Plan pursuant to Title 22, chapter 854.

**Sec. 4. Department of Human Services awarded bid.** If the Department of Human Services is awarded the bid to provide health care coverage or act as administrator for health care coverage pursuant to the Maine Revised Statutes, Title 22, chapter 854, the Board of Directors of the Maine Small Business Health Coverage Plan shall notify the joint standing committee of the Legislature having jurisdiction over health insurance matters no later than October 1, 2003. The committee may report out legislation to the Second Regular Session of the 121st Legislature to alter or amend the provisions of the Maine Revised Statutes, Title 22, chapter 854.

**Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

### **HUMAN SERVICES, DEPARTMENT OF**

#### **Maine Small Business Health Coverage Plan**

Initiative: Provides a base allocation in the event Other Special Revenue funds are received to administer the Maine Small Business Health Coverage Plan.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
All Other	\$0	\$500

See title page for effective date.

## **CHAPTER 678**

**S.P. 419 - L.D. 1363**

### **An Act to Reduce Medical Errors and Improve Patient Health**

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

**Sec. 1. 22 MRSA c. 1684** is enacted to read:

### **CHAPTER 1684**

#### **SENTINEL EVENTS REPORTING**

##### **§8751. Sentinel event reporting**

There is established under this chapter a system for reporting sentinel events for the purpose of improving the quality of health care and increasing patient safety.

##### **§8752. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Division.** "Division" means the Division of Licensing and Certification within the Bureau of Medical Services.

**2. Health care facility.** "Health care facility" or "facility" means a state institution as defined under Title 34-B, chapter 1 or a health care facility licensed by the division, except that it does not include a facility licensed as a nursing facility or licensed under chapter 1665.

**3. Major permanent loss of function.** "Major permanent loss of function" means sensory, motor, physiological or intellectual impairment that requires continued treatment or imposes persistent major restrictions in activities of daily living.

**4. Sentinel event.** "Sentinel event" means:

A. One of the following that is determined to be unrelated to the natural course of the patient's illness or underlying condition or proper treatment of that illness or underlying condition or that results from the elopement of a hospitalized inpatient who lacks the capacity, as defined in Title 18-A, section 5-801, paragraph C, to make decisions:

(1) An unanticipated death; or

(2) A major permanent loss of function that is not present when the patient is admitted to the health care facility;

B. Surgery on the wrong patient or wrong body part;

C. Hemolytic transfusion reaction involving administration of blood or blood products having major blood group incompatibilities;

D. Suicide of a patient in a health care facility where the patient receives inpatient care;

E. Infant abduction or discharge to the wrong family; or

F. Rape of a patient.

**§8753. Mandatory reporting of sentinel events**

A health care facility shall report to the division a sentinel event that occurs to a patient while the patient is in the health care facility as provided in this section.

**1. Notification.** A health care facility shall notify the division of the occurrence of a sentinel event by the next business day after the sentinel event has occurred or the next business day after the facility determines that the event occurred. The notification must include the date and time of notification, the name of the health care facility and the type of sentinel event pursuant to section 8752, subsection 4.

**2. Reporting.** A health care facility shall file a written report no later than 45 days following the notification of the occurrence of a sentinel event pursuant to subsection 1. The written report must be signed by the chief executive officer of the facility and must contain the following information:

A. Facility name and address;

B. Name, title and phone number of the contact person for the facility;

C. The date and time of the sentinel event;

D. The type of sentinel event and a brief description of the sentinel event;

E. Identification of clinical and organizational systems or processes that may have contributed to the sentinel event;

F. Identification of changes that could be made that would reduce the risk of such a sentinel event occurring in the future; and

G. A brief description of any corrective action taken or planned.

**3. Cooperation.** A health care facility that has filed a notification or a report of the occurrence of a sentinel event under this section shall cooperate with the division as necessary for the division to fulfill its duties under section 8754.

**4. Immunity.** A person who in good faith reports a sentinel event pursuant to this chapter is immune from any civil or criminal liability for the act of reporting or participating in the review by the division. "Good faith" does not include instances when a false report is made and the person reporting knows the report is false. This subsection may not be construed to bar civil or criminal action regarding perjury or regarding the sentinel event that led to the report.

**§8754. Division duties**

The division has the following duties under this chapter.

**1. Initial review; other action.** Upon receipt of a notification or report of a sentinel event, the division shall complete an initial review and may take such other action as the division determines to be appropriate under applicable rules and within the jurisdiction of the division. The division may conduct on-site reviews of medical records and may retain the services of consultants when necessary to the division.

**2. Procedures.** The division shall adopt procedures for the reporting, reviewing and handling of information regarding sentinel events. The procedures must provide for electronic submission of notifications and reports.

**3. Confidentiality.** Notifications and reports of sentinel events filed pursuant to this chapter and all information collected or developed as a result of the filing and proceedings pertaining to the filing, regardless of format, are confidential and privileged information.

A. Privileged and confidential information under this subsection is not:

(1) Subject to public access under Title 1, chapter 13, except for data developed from the reports that do not identify or permit identification of the health care facility;

(2) Subject to discovery, subpoena or other means of legal compulsion for its release to any person or entity; or

(3) Admissible as evidence in any civil, criminal, judicial or administrative proceeding.

B. The transfer of any information to which this chapter applies by a health care facility to the division or to a national organization that accredits health care facilities may not be treated as a waiver of any privilege or protection established under this chapter or other laws of this State.

C. The division shall take appropriate measures to protect the security of any information to which this chapter applies.

D. This section may not be construed to limit other privileges that are available under federal law or other laws of this State that provide for greater peer review or confidentiality protections than the peer review and confidentiality protections provided for in this subsection.

E. For the purposes of this subsection, "privileged and confidential information" does not include:

(1) Any final administrative action;

(2) Information independently received pursuant to a 3rd-party complaint investigation conducted pursuant to department rules; or

(3) Information designated as confidential under rules and laws of this State.

This subsection does not affect the obligations of the department relating to federal law.

**4. Report.** The division shall develop an annual report to the Legislature, health care facilities and the public that includes summary data of the number and types of sentinel events of the prior calendar year by type of health care facility, rates of change and other analyses and an outline of areas to be addressed for the upcoming year. The report must be submitted by February 1st each year.

#### **§8755. Compliance**

A health care facility that knowingly violates any provision of this chapter or rules adopted pursuant to

this chapter is subject to a civil penalty payable to the State of not more than \$5,000 per unreported sentinel event to be recovered in a civil action. Funds collected pursuant to this section must be deposited in a dedicated special revenue account to be used to support sentinel event reporting and education.

#### **§8756. Rulemaking**

The department shall adopt rules to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

#### **Sec. 2. Appropriations and allocations.**

The following appropriations and allocations are made.

#### **HUMAN SERVICES, DEPARTMENT OF**

##### **Bureau of Medical Services**

Initiative: Effective May 1, 2003, adds 2 Health Services Consultant positions. Provides funding to establish a system for receiving, reviewing and reporting serious medical errors, referred to as "sentinel events."

<b>General Fund</b>	<b>2001-02</b>	<b>2002-03</b>
Positions - Legislative Count	(0.000)	(2.000)
Personal Services	\$0	\$14,526
All Other	0	25,333
Total	\$0	\$39,859

**Sec. 3. Effective date.** This Act takes effect May 1, 2003.

Effective May 1, 2003.

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## **CHAPTER 679**

### **H.P. 70 - L.D. 79**

#### **An Act to Reinstate Tax Deductibility of Qualified Long-term Care Insurance**

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

**Sec. 1. 24-A MRSA §5075-A** is enacted to read:

#### **§5075-A. Certification by superintendent**

**1. Filing of form.** An insurer, nonprofit hospital or medical service organization or nonprofit health care plan may request, at the time it files a policy or contract for approval for issuance or delivery in the State or at any time thereafter, that the superintendent certify the policy or contract as a long-term care insurance policy.