

# 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**

(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.

**2. Determination.** Within 60 days after receipt of a request for certification, the superintendent shall in writing:

A. Certify that the policy or contract complies with this section;

B. Deny the request and state the reasons for the denial; or

C. Notify the insurer, nonprofit hospital or medical service organization or nonprofit health care plan that an insufficient basis exists for determining whether a certification should be made and indicate the nature of the insufficiency.

**3. Standards for compliance.** The superintendent shall certify a policy or contract submitted for review under this section as a long-term care insurance policy if the superintendent finds that the policy or contract complies with all the standards applicable to long-term care policies set forth in this chapter and in chapters 27, 33 and 35 and rules adopted pursuant to those chapters by the superintendent. Waivers granted under the rules must be taken into consideration.

**Sec. 2. 36 MRSA §2525-A, sub-§§1 and 2,** as enacted by PL 1999, c. 521, Pt. C, §2 and affected by §9, are amended to read:

**1. Credit.** A taxpayer under this chapter constituting an employing unit is allowed a credit against the tax imposed by this chapter for each taxable year ~~that begins on or after January 1, 2000~~ equal to the lowest of the following:

A. Five thousand dollars;

B. Twenty percent of the costs incurred by the taxpayer in providing ~~qualified eligible~~ long-term care insurance ~~contract coverage~~ as part of a benefit package; or

C. One hundred dollars for each employee covered by ~~an~~ employer-provided eligible long-term care insurance ~~contract~~.

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

A. "Employing unit" has the same meaning as in Title 26, section 1043.

~~B. "Qualified long term care insurance contract" means a qualified long term care insurance contract as defined in the Code, Section 7702B(b).~~

C. "Eligible long-term care insurance" means:

(1) For tax years beginning on or after January 1, 2000, a qualified long-term care

insurance contract as defined in the Code, Section 7702B(b); and

(2) For tax years beginning on or after January 1, 2002, a contract specified in subparagraph (1) or a long-term care insurance policy certified by the Superintendent of Insurance under Title 24-A, section 5075-A.

**Sec. 3. 36 MRSA §5122, sub-§2, ¶O,** as enacted by PL 2001, c. 439, Pt. KK, §1 and affected by §2, is amended to read:

O. A Holocaust victim settlement payment received by a Holocaust victim to the extent included in federal adjusted gross income. This paragraph applies only to a taxpayer who is the first recipient of a Holocaust victim settlement payment. For purposes of this paragraph, the following terms have the following meanings.

(1) "Holocaust victim" means an individual who died, lost property or was a victim of persecution as a result of discriminatory laws, policies or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation or national origin, whether or not the individual was actually a member of any of those groups, or because the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in Nazi Germany or in any European country allied with or occupied by Nazi Germany. "Holocaust victim" includes the spouse or descendant of such an individual.

(2) "Holocaust victim settlement payment" means a payment received:

(a) As a result of the taxpayer's status as a Holocaust victim;

(b) As a result of the settlement of any other Holocaust claim, including an insurance claim, a claim relating to looted art, a claim relating to looted financial assets, a claim relating to slave labor wages or a class action lawsuit claim against Swiss banks; or

(c) As interest on any payment under division (a) or (b) accumulated or accrued through the date of payment;

**Sec. 4. 36 MRSA §5122, sub-§2, ¶P** is enacted to read:

P. For income tax years beginning on or after January 1, 2002, an amount equal to the total premiums spent for long-term care insurance policies certified under Title 24-A, section 5075-A as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125.

**Sec. 5. 36 MRSA §5217-C, sub-§§1 and 2,** as enacted by PL 1999, c. 521, Pt. C, §8 and affected by §9, are amended to read:

**1. Credit.** A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year ~~that begins on or after January 1, 2000~~ equal to the lowest of the following:

- A. Five thousand dollars;
- B. Twenty percent of the costs incurred by the taxpayer in providing qualified eligible long-term care insurance ~~contract coverage~~ as part of a benefit package; or
- C. One hundred dollars for each employee covered by ~~an~~ employer-provided eligible long-term care insurance ~~contract~~.

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

A. "Employing unit" has the same meaning as in Title 26, section 1043.

~~B. "Qualified long-term care insurance contract" means a qualified long-term care insurance contract as defined in the Code, Section 7702B(b).~~

C. "Eligible long-term care insurance" means:

(1) For tax years beginning on or after January 1, 2000, a qualified long-term care insurance contract as defined in the Code, Section 7702B(b); and

(2) For tax years beginning on or after January 1, 2002, a contract specified in subparagraph (1) or a long-term care insurance policy certified by the Superintendent of Insurance under Title 24-A, section 5075-A.

**Sec. 6. Application.** This Act applies to tax years beginning on or after January 1, 2002.

See title page for effective date.

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## CHAPTER 680

S.P. 337 - L.D. 1144

### An Act to Enhance Economic Development Capacity

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

**Sec. 1. 5 MRSA §13063-C, sub-§4,** as enacted by PL 1995, c. 706, §2, is repealed and the following enacted in its place:

**4. Transfer from program.** Funds must be transferred from the program as follows:

A. Upon the revocation of a certificate of approval, any balance remaining in the program and allocated to the business whose certificate has been revoked must be transferred to the department's "Administration - Economic and Community Development" program as nonlapsing funds to be used in accordance with section 13063-D; and

B. Notwithstanding section 1585, any balance remaining in the program after July 31, 2007 must be transferred to the Maine Rainy Day Fund as established in section 1513.

The commissioner may consider the layoff or termination of all, or substantially all, of the employees of a certified retained business as demonstration that it has ceased operations.

**Sec. 2. 5 MRSA §13063-D,** as enacted by PL 1999, c. 731, Pt. MMM, §1 and Pt. VVV, §1, is repealed and the following enacted in its place:

**§13063-D. Grants to municipalities to retain mature or dominant employers**

The commissioner shall authorize grants to municipalities for the purpose of assisting those municipalities to retain mature or dominant employers, as defined in rules adopted by the commissioner, especially manufacturing firms presently located in the State. In awarding grants under this section, the commissioner shall consider the economic health of the region in which the municipality is located, the economic and social impacts that would be or have been created by the loss of the mature or dominant employer and the likelihood of returning that employer to a financially viable condition. In awarding any grant under this section, the commissioner shall take appropriate measures to ensure accountability and a positive return on the public's investment. To the extent that grant funds have been transferred from the Job Retention Program in accordance with section 13063-C, subsection 4, the commissioner shall give