

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2009**

B. The durable medical equipment is the least restrictive alternative for the treatment of the behavioral health condition;

C. The durable medical equipment is approved on a case-by-case basis by a review team composed of the same representatives as the team conducting children's behavioral treatment reviews under subsection 13, paragraph B, subparagraph (3); and

D. The department determines that the durable medical equipment is cost-effective in comparison to the provision of other covered services or equipment that can sufficiently correct or ameliorate the behavioral health condition.

The department may adopt rules as necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

## CHAPTER 101

### H.P. 688 - L.D. 1000

#### An Act To Amend the Provision Creating the Long- term Care Partnership Program

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, compliance with Section 6021 of the federal Deficit Reduction Act of 2005 is required before the Long-term Care Partnership Program may begin operation; and

**Whereas**, rules for the proper operation of the Long-term Care Partnership Program within the MaineCare program have been proposed and must be finally adopted before the Long-term Care Partnership Program may begin operation; and

**Whereas**, affording residents of the State the opportunity to purchase long-term care insurance policies that qualify for the Long-term Care Partnership Program will encourage the private payment of long-term care costs, delay or avoid MaineCare payments for these costs and help to avoid the financial exploitation of elderly people who otherwise may be unduly influenced to transfer their property; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 22 MRSA §3174-GG, first ¶**, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

There is established within the department the Long-term Care Partnership Program pursuant to Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4 (2006), referred to in this section as "the program," to provide incentives for persons to insure the costs of their own long-term care and to alleviate some of the costs of long-term care being paid by MaineCare. The department shall administer the program as a part of MaineCare, ~~contingent upon federal Medicaid participation, beginning 3 months after the federal Omnibus Budget Reconciliation Act of 1993 is amended to allow new state partnership programs.~~

**Sec. 2. 22 MRSA §3174-GG, sub-§1**, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

**1. Eligibility.** A person is eligible for the program if that person ~~has purchased~~ is insured under a policy of long-term care insurance qualified pursuant to the federal Deficit Reduction Act of 2005 and approved for the purpose of the program and then has used the policy alone or in combination with private resources to pay for long-term care costs ~~at the nursing facility level of care, without resort to MaineCare coverage, for a period of time specified by the program.~~ In order to qualify for benefits under the program, a person must be eligible under this subsection and meet the other criteria required for long-term care benefits under the MaineCare program as provided in this chapter and in rules adopted by the department.

**Sec. 3. 22 MRSA §3174-GG, sub-§2**, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

**2. Benefits.** The benefits of the program include coverage for long-term care services under MaineCare ~~for long-term care at the nursing facility level of care~~ after the person participating in the program has ~~exhausted~~ used the available coverage and benefits purchased under the approved long-term care policy.

**Sec. 4. 22 MRSA §3174-GG, sub-§3**, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

**3. Disregard.** In addition to assets disregarded or exempt under MaineCare program rules, in determining eligibility for MaineCare and the amount of MaineCare benefits and in estate recovery pursuant to section 14, subsection 2-I, the program must disregard assets of an eligible person that are disclosed to the department in the application or posteligibility process in an amount equal to the benefits paid by the ap-

proved long-term care insurance policy ~~for nursing facility level of care.~~

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 8, 2009.

## CHAPTER 102

H.P. 377 - L.D. 532

### An Act Regarding Liquor Licenses Issued to Incorporated Civic Organizations

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

**Sec. 1.** 28-A MRSA §1071, sub-§6 is enacted to read:

**6. Server requirements.** An incorporated civic organization issued a license in accordance with this section shall provide the names of those who will be serving alcoholic beverages at the public event or gathering being sponsored. In the event that a server from that list is unavailable, a licensed manufacturer, distributor, wholesaler, farm winery or small brewery that has provided alcoholic beverages to be served at the event may provide serving assistance.

See title page for effective date.

## CHAPTER 103

H.P. 635 - L.D. 917

### An Act To Prevent the Unauthorized or Deceptive Use of the Names of Financial Institutions

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

**Sec. 1.** 9-B MRSA §241, sub-§15 is enacted to read:

**15. Deceptive use of names.** A person may not use in an unauthorized or deceptive manner the name, abbreviated name or title of any financial institution authorized to do business in this State, credit union authorized to do business in this State, financial institution holding company or their affiliates or subsidiaries in any written or oral advertisement or solicitation. Use of a name, abbreviated name or title is not unauthorized or deceptive if the person using the name, abbreviated name or title has obtained written authorization for such use from the financial institution, credit

union, holding company, affiliate or subsidiary or if the use is limited solely to a truthful written advertisement or solicitation comparing the relative attributes of similar products or services offered by the financial institution, credit union, holding company, affiliate or subsidiary and the person using the name, abbreviated name or title.

The superintendent may, through the Attorney General, bring a civil action against any person who willfully violates any provision of this subsection. The penalty for violation of this subsection may not exceed \$5,000 for each violation.

Any financial institution, credit union, holding company, affiliate or subsidiary whose name, abbreviated name or title is used by any person in violation of this subsection may, in addition to any other remedy available under the laws of this State, bring an action to enjoin such use and recover damages. The court shall award actual damages or \$5,000 for each violation, whichever is greater, plus attorney's fees and costs, upon a finding that a violation has occurred.

See title page for effective date.

## CHAPTER 104

S.P. 314 - L.D. 806

### An Act To Authorize Fuel Cost Stabilization Funds To Be Established in School Administrative Units

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

**Sec. 1.** 20-A MRSA §15008 is enacted to read:

#### **§15008. Fuel cost stabilization fund**

A school administrative unit may establish and expend a fuel cost stabilization fund as provided in this section.

**1. Establishment and funding.** The voters or other legislative body of a school administrative unit may establish a fuel cost stabilization fund and may raise and appropriate funds for that purpose in addition to the school operating budget. A separate warrant article for that purpose must be approved at the budget meeting and at the budget validation referendum. If a school administrative unit has discontinued the budget validation referendum process, the article must be approved by the voters or other legislative body using the same process as for approval of the school budget. If a school administrative unit has available fund balances at the end of a fiscal year, the transfer of those funds to the fuel cost stabilization fund may be authorized at a budget meeting or other meeting of the voters