

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

Initiative: Allocates one-time funds to update the licensing system for the new license type.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$2,500	\$0
	\$2,500	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL		

Dental Examiners - Board of 0384

Initiative: Allocates one-time funds for the costs associated with rulemaking.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$2,500	\$0
	\$2,500	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL		

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$5,000	\$0
	\$5,000	\$0
DEPARTMENT TOTAL - ALL FUNDS		

See title page for effective date.

**CHAPTER 451
H.P. 1168 - L.D. 1583**

**An Act To Provide Oversight
in Certain Negotiations**

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

Sec. 1. 24-A MRSA §4303, sub-§15 is enacted to read:

15. Prohibition on "most favored nation" clauses. Participation agreements between carriers and providers are governed by this subsection.

A. A participation agreement between a carrier and a provider may not include a provision, commonly referred to as a "most favored nation" clause, that:

(1) Prohibits, or grants the carrier an option to prohibit, the provider from entering into a participation agreement with another carrier to provide services at a lower price than the payment specified in the participation agreement;

(2) Requires, or grants the carrier an option to require, the provider to accept a lower payment in the event the provider agrees to provide services to any other carrier at a lower price;

(3) Requires, or grants the carrier an option of, termination or renegotiation of the existing participation agreement in the event the provider agrees to provide services to any other carrier at a lower price; or

(4) Requires the provider to disclose its reimbursement rates from other carriers.

B. The superintendent may grant a waiver to paragraph A on application by either a carrier or a provider. A carrier or provider requesting a waiver for more than one participation agreement must file a separate application for each requested waiver. The superintendent may grant a waiver only after issuing a finding that the inclusion in the participation agreement of a most favored nation clause as described in paragraph A is not anticompetitive. A carrier or provider requesting a waiver may request a hearing on the application for a waiver in accordance with section 229. The findings and decision of the superintendent are final agency actions for the purposes of Title 5, chapter 375, subchapter 7 and, notwithstanding section 236, subsection 2, may be appealed regardless of whether a hearing was held. The superintendent's review under this paragraph is limited to the most favored nation clause, and any decision under this paragraph is for purposes of this subsection only and may not be construed as a finding or decision regarding the legality of the provision under other applicable law.

C. Prior to the issuance of the superintendent's findings and decision on an application for a waiver pursuant to this subsection, any contract, proposal or draft legal instrument submitted to the superintendent in an application for a waiver is not a public record for the purposes of Title 1, chapter 13, except that the name and business address of the parties to an application for a waiver are public information. After the issuance of the superintendent's findings and decision, the superintendent may disclose any information that the superintendent determines is not proprietary information. For the purposes of this paragraph, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would

impair the competitive position of the carrier or provider submitting the information and would make available information not otherwise publicly available.

D. A carrier may not discriminate or retaliate against a provider for filing or opposing an application for a waiver under this subsection.

E. A provider may not discriminate or retaliate against a carrier for filing or opposing an application for a waiver under this subsection.

F. For the purposes of this subsection, the factors the superintendent may consider in determining whether to grant a waiver based on a finding that the inclusion of a most favored nation clause as described in paragraph A is not anticompetitive include, but are not limited to:

- (1) Any reduction or limit on competition among carriers or providers;
- (2) The impact on quality and availability of health care services, including the geographic distribution of providers;
- (3) The size of the provider and the type of any specialty;
- (4) The market share of the carrier and the provider;
- (5) The impact on the price and stability of health insurance and health care services to consumers; and
- (6) The impact on reimbursement rates in the provider marketplace.

Sec. 2. Application. This Act applies to any contract executed or renewed on or after January 1, 2012.

See title page for effective date.

CHAPTER 452

H.P. 1185 - L.D. 1587

An Act To Provide Further Improvements to Maine's Health Insurance Law

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

Sec. 1. 24-A MRSA §3957, sub-§2, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

2. Maximum assessment. The board shall assess each insurer an amount not to exceed \$4 per month per covered person enrolled in medical insurance insured, reinsured or administered by the insurer. An insurer may not be assessed on policies or con-

tracts insuring federal or state employees except for policies or contracts insuring Legislators and their dependents. For policies or contracts insuring Legislators and their dependents, Legislators shall pay the amount of the assessment to the insurer.

Sec. 2. 24-A MRSA §3957, sub-§5, ¶D is enacted to read:

D. An insurer may not be assessed on policies or contracts insuring federal or state employees, except for policies or contracts insuring Legislators and their dependents. Any assessment required under this subsection on policies or contracts insuring Legislators and their dependents must be paid as provided in subsection 2.

Sec. 3. Payroll deduction. In consultation with the Legislative Council and the insurer or 3rd-party administrator for the group health plan provided in accordance with the Maine Revised Statutes, Title 5, section 285, the State shall collect any assessment required to be paid by Legislators pursuant to Title 24-A, section 6957, subsection 2 or subsection 5 through payroll deduction.

See title page for effective date.

CHAPTER 453

S.P. 235 - L.D. 742

An Act To Amend the Maine Historic Preservation Tax Credit

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

Sec. 1. 27 MRSA §511, sub-§5, ¶B, as enacted by PL 2007, c. 539, Pt. WW, §1, is amended to read:

B. By January 15, 2013, the Maine Historic Preservation Commission shall review the tax credit provided under Title 36, section 5219-BB and shall make recommendations to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding specific proposals for funding the credit. By January 15, 2013 2015 and every 2 years thereafter, the Maine Historic Preservation Commission shall analyze the use of tax credits provided under Title 36, section 5219-BB as an incentive for rehabilitation of historic structures and economic development, analyze tax and other revenues generated by the rehabilitation to determine in relation to the cost of the credit if they exceed the costs of the credit and report the results of its analysis to the joint standing committee of the Legislature having jurisdiction over taxation matters with recommendations as to whether the credits under Title 36, section