

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

insurer and at least one of whom is a 3rd-party administrator.

Sec. 3. 24-A MRSA §3953, sub-§2, ¶¶E to G are enacted to read:

E. The board shall establish regular places and times for meetings and may meet at other times at the call of the chair. The board shall post notice of scheduled meetings, meeting agendas and minutes of meetings on a publicly accessible website maintained by the association.

F. The board shall establish a mechanism on its publicly accessible website for the public to submit comments on matters related to the operations of the association.

G. The board shall establish a process for taking public comment at selected board meetings to be held at such time and place as the board may determine. The opportunity for public comment must be made available not less often than quarterly. Except as specified in this paragraph, meetings of the board are not open to the public.

Sec. 4. 24-A MRSA §3962 is enacted to read:

§3962. Activities authorized during suspension period

This section governs the suspension of operations of the association during the period in which the transitional reinsurance program pursuant to Section 1341 of the federal Affordable Care Act operates in this State and the authority of the association to conduct certain activities.

1. Payment of claims. The association shall pay claims eligible under sections 3958 and 3961 that were incurred prior to the commencement of the suspension of the association pursuant to section 3953, subsection 1.

2. Additional assessment for net losses. The association may impose any additional assessment necessary to fund net losses of the association pursuant to section 3957, subsection 5.

3. Amended plan of operation. Within 6 months following the implementation of the federal transitional reinsurance program in this State, the association shall submit an amended plan of operation as provided in section 3953, subsection 3 to the superintendent for approval. In amending the plan of operation, the association shall, at a minimum, include a plan for the application of any funds held by the association as of its suspension, the investment of any funds held by the association during its period of suspension, the reactivation of the association upon termination of the federal transitional reinsurance program and, if necessary, the distribution of any surplus funds not required for such purposes. Prior to approving an amended plan of operation submitted under this

subsection, the superintendent shall post the amended plan of operation on the bureau's publicly accessible website and establish a comment period of at least 30 days during which the public may submit for consideration written and electronic comments on the amended plan of operation. At the time of approval of any amended plan of operation, the superintendent shall adopt a written statement addressing specific comments and concerns expressed about the amended plan of operation and state the superintendent's rationale for adopting or not adopting any changes to the amended plan of operation or making findings and recommendations that differ from those expressed about the amended plan of operation.

4. Exception. This section does not apply if federal law or regulation exempts the State from participation in the transitional reinsurance program pursuant to Section 1341 of the federal Affordable Care Act.

Sec. 5. Evaluation of Maine Guaranteed Access Reinsurance Association. During the First Regular Session of the 127th Legislature, the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters shall conduct a review and evaluation of the transitional reinsurance program operating in the State between January 1, 2014 and December 31, 2016 pursuant to the federal Patient Protection and Affordable Care Act and federal regulations adopted pursuant to that Act and the differences between the transitional reinsurance program and the Maine Guaranteed Access Reinsurance Association as established by the Maine Revised Statutes, Title 24-A, chapter 54-A. Before January 1, 2016, the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters shall make a recommendation to the Superintendent of Insurance as to whether the Maine Guaranteed Access Reinsurance Association should resume operations pursuant to a revised plan of operation and whether any changes should be made to the statutes governing the association. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may submit a bill based on its evaluation to the Second Regular Session of the 127th Legislature.

See title page for effective date.

CHAPTER 274

S.P. 239 - L.D. 648

**An Act To Make Records of
External Review Proceedings
Overseen by the Bureau of
Insurance Confidential**

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

Sec. 1. 24-A MRSA §4312, sub-§7-A is enacted to read:

7-A. Confidentiality. Except as provided in this subsection, all records of the bureau or an independent review organization relating to an external review request or external review proceeding are confidential and not a public record under Title 1, chapter 13.

A. A party to an external review may obtain from the independent review organization a transcript or recording of the external review hearing and a copy of any evidence introduced by the opposing party.

B. The superintendent shall disseminate to the Legislature and to the public aggregate information related to external reviews conducted by independent review organizations on an annual basis, including:

(1) The number of external review requests by carrier, the number of decisions in favor of the enrollee, the number of decisions upholding the carrier's benefit determination and the number of external review requests resolved prior to the issuance of a decision; and

(2) The categories of external review requests by carrier. The categories may not include personally identifiable information or specific medical condition. The categories must include, but are not limited to, medical necessity, out-of-network referrals, inpatient care, behavioral health, prescription drugs and experimental or investigational treatment.

See title page for effective date.

CHAPTER 275

S.P. 362 - L.D. 1080

**An Act To Improve Efficiency
in the Collection of Beverage
Containers**

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

Sec. 1. 32 MRSA §1866, sub-§5, as amended by PL 2003, c. 499, §7, is further amended to read:

5. Obligation to pick up containers. The obligation to pick up beverage containers subject to this chapter is determined as follows.

A. A distributor that initiates the deposit under section 1863-A, subsection 2 or 4 has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular

kind, size and brand sold by the distributor from dealers to whom that distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. A distributor that, within this State, sells beverages under a particular label exclusively to one dealer, which dealer offers those labeled beverages for sale at retail exclusively at the dealer's establishment, shall pick up any empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor to the dealer only from those licensed redemption centers that serve the various establishments of the dealer, under an order entered under section 1867. A dealer that manufactures its own beverages for exclusive sale by that dealer at retail has the obligation of a distributor under this section. The commissioner may establish by rule, in accordance with the Maine Administrative Procedure Act, criteria prescribing the manner in which distributors shall fulfill the obligations imposed by this paragraph. The rules may establish a minimum number or value of containers below which a distributor is not required to respond to a request to pick up empty containers. Any rules promulgated under this paragraph must allocate the burdens associated with the handling, storage and transportation of empty containers to prevent unreasonable financial or other hardship.

B. The initiator of the deposit under section 1863-A, subsection 3 has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. The obligation may be fulfilled by the initiator directly or indirectly through a contracted agent.

C. An initiator of the deposit under section 1863-A, subsection 2, 3 or 4 has the obligation to pick up any empty, unbroken and reasonably clean beverage containers that are commingled pursuant to a commingling agreement along with any beverage containers that the initiator is otherwise obligated to pick up pursuant to paragraphs A and B.

D. The initiator of deposit or initiators of deposit who are members of a commingling agreement have the obligation under this subsection to pick up empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers designated to serve those dealers every 15 days. The initiator of de-