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Report of the Joint Standing Committee
on Banking and Insurance

Study of the Relationship Between NonProfit
Service Agencies and Professional Liability and
Other Hard-to-Obtain Lines of Liability Insurance

February, 1988

MEMBERS:

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Rep. Charlene Rydell, Chair
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I. INTRODUCTION

During the First Regular Session of the 113th Legislature two bills, LD 551 Resolve, To Study the Need for and Feasibility of Establishing a Self-Insurance Fund and Reinsurance Funds in Maine and LD 554 Resolve, To Establish a Study of the Feasibility of an Interstate Insurance Compact, Joint Reinsurance Programs and Experience-Based Rating in Maine, were introduced. These two resolves were combined and rewritten as LD 1752 Resolve, To Study the Relationship Between Nonprofit Service Agencies and Professional Liability and Other Hard-To-Obtain Lines of Liability Insurance. This report is the result of LD 1752 (Resolve 1987 c. 65) which established the study to be conducted by the Joint Standing Committee on Banking and Insurance. The study focused on whether availability and affordability of liability insurance is a problem in the nonprofit service sector and examined alternatives to solve the potential problem.

Four members of the Committee were chosen to serve on the subcommittee: Senator Beverly Bustin, Rep. Charlene Rydell, Rep. Kelley Simpson and Rep. Philip Curran. Representative Charlene Rydell served as the chairperson. The Subcommittee met five times from July 1987 through January 1988.

A research assistant was hired to conduct surveys of nonprofit service organizations and insurance companies. The subcommittee examined existing self-insurance programs in Maine and other states and also looked at experience-based rating and insurance compacts. In addition, the subcommittee studied problems that foster parents and respite care providers in Maine have had in obtaining liability insurance.

LD 1752 required a November 15, 1987 reporting date. This reporting date was extended to February 15, 1988 by LD 2116.

II. BACKGROUND

A. Interstate Compacts

An interstate insurance compact is an agreement between two or more states that would require insurers who write a certain line of insurance in one of the states to write that line in all the states that are members of the compact. The purpose of a compact is to help prevent an insurer from withdrawing from a particular line in one state.

Insurance compacts were apparently discussed in several states recently but never put into practice. After extensive research, none were found to exist. Only one bill was introduced in any State. Virginia House Bill No. 1631 introduced in 1987 would have allowed the Governor to enter into compacts with appropriate authorities in other states. This bill passed the Virginia House but was defeated in the Senate.

The Committee received testimony which indicated that compacts would be difficult to establish because insurance laws vary from state to state. Therefore, members of a compact would usually be operating under different laws. Additionally, a compact might work against availability. Profitability in one state can be very different from profitability in another state in the same line. A compact might force an insurance company to withdraw from a healthy market in one state because of an unhealthy market in another state.

B. Experience Based Rating

During the course of this study and other related studies, the relationship of rates to claims experience in Maine was discussed frequently. There was some feeling that rates were not based on actual experience in Maine. This study required the Committee to look at the feasibility of experience-based rating.

After a search of selected states, it was determined that no states are requiring rates to be based on that state's experience alone. The selected states¹ appear to have very similar statutes which require that due consideration be given to past and prospective loss experience, to expenses within and outside the state, and to other trends and relevant factors within and outside the state.

Some testimony was received that indicated that experience countrywide does have an impact on Maine. Maine may not be isolated from what happens in other states because perception influences the rates and premiums. Often the price of a premium is a direct result of the cost

of reinsurance, and the cost of the reinsurance may be the result of a perception. Although the underlying data used in setting rates in Maine is from this state, severity and frequency trends are generally determined on a countrywide basis. Maine's premium volume is often too low to accurately reflect the overall cost of settling claims.

C. Problems of Nonprofit Service Organizations and Possible Solutions

The Committee heard testimony from several nonprofit social service organizations that were unable to obtain insurance coverage or who had large increases in premiums in recent years. The Committee decided to investigate the extent of these problems and to determine workable solutions if a problem was found to exist. A research assistant was hired to conduct surveys of agencies and insurance companies. While waiting for the results, the Committee looked at possible solutions and recommendations from the Commission to Examine Tort Litigation and Liability Insurance Problems in Maine which had been looking at similar problems during 1986 and 1987.

The following possible solutions were discussed:

1. Market Assistance Plans (MAP's)

CURRENT LAW: There is no current law regarding MAP's. A MAP is a voluntary agreement between State government and insurance companies that the companies will write insurance at an agreed upon price for those persons or groups that cannot find coverage. One MAP for daycare was formed last year.

TORT COMMISSION: The Tort Commission is recommending:

- a) That the Bureau be encouraged to have a readiness to create MAP's.
- b) That a special Bureau staffperson be assigned to help consumers with market assistance.
- c) That all major insurance carriers be encouraged to participate in MAP's.
- d) That the Bureau consider what incentives could be developed for insurance carriers to participate in MAP's.

2. Joint Underwriting Associations(JUA's)

CURRENT LAW: A JUA is a legislatively mandated association of all insurers in the state who must write insurance policies for those who cannot find

coverage in the marketplace. Other than the temporary JUA for medical malpractice, which is no longer issuing policies, there is no statutory provision that would allow the Superintendent of Insurance to establish a JUA for any type of insurance.

TORT COMMISSION: The Tort Commission is recommending that the Superintendent be given statutory authority to determine that a Market Assistance Plan (MAP) is not working, thus requiring the establishment of a JUA after a notice and hearing. This authority should be general, permitting the establishment of a JUA for any line of insurance. Under this authority, the Superintendent would:

- a) first try a MAP;
- b) if he determines that there is insufficient voluntary participation by insurers through the MAP, establish a JUA;
- c) after operation of the JUA for 1 year, hold a hearing to see if the JUA should continue; and
- d) be able to apply a penalty for failure to participate in a JUA (current law permits the revocation of an insurer's license for any failure to abide by the insurance statutes or regulations).

This recommendation is a broader option than that proposed in LD 810 or LD 380 (bills carried over from the 1st Regular Session of the 113th Legislature) because it does not limit the types of insurance for the establishment of a JUA. Both LD 810 and LD 380 limit the types of insurance.

3. Group Purchasing

CURRENT LAW: Group insurance occurs when businesses or consumers with like characteristics join together to purchase insurance. Currently, employee groups in Maine are authorized to purchase health, life, or legal services insurance on a group basis. 24-A MRSA §2172 prohibits the sale of insurance to fictitious groups. Fictitious grouping is defined as any grouping by other than a common insurable interest as to the subject of insurance and risk involved.

Group purchasing of property and casualty insurance is regulated in chapter 40 of Title 24-A under the mass marketing law. Insurers may sell group insurance to members of associations or organizations as long as no member is excluded from the purchase. Insurers may not sell to any group if the purchase of insurance is a condition of membership.

Group purchasing may increase availability, especially for the more risky organizations and may slightly decrease the cost because of savings in administrative expenses. However, in a hard market groups are vulnerable to the same extreme price increases and cancellations as individuals.

TORT COMMISSION: After listening to concerns of the Bureau of Insurance, the Tort Commission decided that no recommendation concerning group insurance would be offered at this time. Organizations that are bad risks and that have had problems obtaining insurance would have to be accepted under current law. Claims for these organizations might cause the premium for the group to rise excessively. If the mass marketing law were changed to allow exclusion of bad risks, then many people who now have insurance through a group would lose their insurance. These problems with group purchasing far outweigh any benefits that might accrue from changing our current law.

4. Captive Insurance Companies

CURRENT LAW: A captive is an insurance company that is solely owned by the organizations or individuals it insures. The owners contribute capital and pay premiums to the captive and in general the premiums are used to cover the administrative expenses of the captive and to pay claims. There is no separate law in Maine governing captives. Therefore, they would be regulated the same as any insurance company. Some states have made it easier for captives to form by lowering capitalization and reserve requirements.

TORT COMMISSION: The Tort Commission recommends that no change be made in current law. Any change in the regulation of captives (e.g. lowering reserve requirements) should be approached cautiously. Encouragement of the formation of captives without guaranteeing the ability of a captive to pay claims will not help the consumer.

5. Risk Retention Groups

Risk Retention Groups are groups that form to provide or purchase insurance for similar organizations under the federal Risk Retention Act.² Risk retention

groups must be licensed in one state but are allowed to sell insurance in any other state. Risk retention groups may sell only liability insurance. They are prohibited from participating in state guaranty funds.

During the 1st Regular Session of the 113th Legislature, a law regulating the operation of risk retention groups in Maine was passed (PL 1987 c.481). These regulations are minimal as allowed by the federal law. Any nonprofit in Maine may purchase insurance from a risk retention group as long as these regulations are followed. As of mid-August, 1987, the Bureau of Insurance had received filings from approximately 100 purchasing groups and 18 risk retention groups.

TORT COMMISSION: No recommendation since federal law regulates risk retention groups.

6. Self-Insurance (POOLS)

CURRENT LAW: In 1986 a law was passed which allows 10 or more municipalities or school administrative districts or an organization representing 10 or more political subdivisions to form self-insurance pools as long as certain audit requirements are met. The liability of political subdivisions is limited under the Maine Tort Claims Act. Before the 1986 law was passed self-insurance pools for public entities, had there been any, would have been regulated the same as traditional insurance companies. There were no such pools because the reserving and capital requirements to form an insurance company are very high.

In order for nonprofits to self-insure, other than through a risk retention group, legislation similar to the law for municipalities is necessary. In addition, nonprofits would need to be granted some immunity or have their liability limited. Without this, they probably would not be able to purchase reinsurance.

The Maine Municipal Association testified that their self-insurance program was very difficult, expensive, and time consuming to put together. It took a professional team of outside consultants, an actuary, a broker, an attorney, financial advisors, and MMA staff 1 1/2 years to get it started. The broker had experience with pooling of municipalities in other states. MMA representatives testified that for a pool to be successful, homogeneous groups and a large pool of members are necessary to attract excess insurers. Reinsurers need volume, usually a critical mass of at least \$1 million. The pool retains \$100,000 of every loss. Everything else is reinsured. The pool only achieved a 10-15% cost reduction but the goal was stability, not cost reduction.

TORT COMMISSION: A majority of members on the Tort Commission recommend that self-insurance not be extended to include any other groups than those currently covered.

D. Foster Care/Respite Care

The problems facing foster parents and respite³ care providers in obtaining liability insurance originally came to the attention of the Committee as a result of LD 380 An Act Pertaining to the Establishment of Mandatory Risk-Sharing Plans. This bill would have established a Joint Underwriting Association for foster care and respite care.

Problems in liability insurance have only surfaced in the past few years. Foster parents bought insurance at a reduced rate through Maine Foster Parents Association until August 1985. At that time the insurance was cancelled and the association was unable to find another company. Foster parents then relied mostly on their homeowners' policies. However, discussions with foster parents and insurance agents revealed a great deal of ambiguity in coverage and differences among policies.

Respite providers never have had any insurance through an association, but they believed they were covered on their homeowners' policies. When agents were approached last year with inquiries about the level of coverage, the agents were doubtful whether all situations were covered or if there was coverage at all. Agents generally did not understand the nature of respite care. This lack of understanding made it difficult for them to know whether there was coverage.

Because of increased awareness of liability litigation in recent years, many foster parents and respite care providers are reluctant or unwilling to continue to provide their services without insurance. A representative of the Maine Respite Project testified that according to a survey conducted by the project, about 40% of respite providers had reservations about continuing in respite service without liability insurance. Several foster parents have been verbally threatened with suits, but no suit has actually been filed. Just one suit however, could severely jeopardize the entire foster care system.

Over the summer and fall of 1987 at the direction of the Committee, the Bureau of Insurance assembled a group of people consisting of representatives of foster parents, respite providers, and insurance companies in order to determine whether coverage could be provided through homeowners' policies. One insurance company agreed to add a rider to a homeowner's policy for \$25 per foster child

for typically encountered perils. The coverage would not include protection in suits involving child abuse or alienation of affection.

Coverage through a homeowner's policy for respite care providers presented a more difficult question because insurers considered respite a business. Respite care providers do receive wages for their services from the primary care person, whereas foster parents receive only money for maintenance of the child. Additionally, insurers were reluctant to include respite on a homeowner's policy because often the disabled persons need special care which might include medication or other special procedures. Despite these concerns, in late November, 1987, insurance representatives proposed a similar endorsement for respite care as was proposed for foster care at the same cost.

Because the homeowner's policy would not cover professional liability for foster care or respite care the Committee explored other alternatives. New Hampshire buys general and property damage liability for foster parents and respite care providers but no professional liability. The cost is \$60 per child for foster children for \$500,000 coverage and \$75 per home and \$35 per client for respite care for the same coverage. New Jersey and California cover professional liability through a state self-insurance fund. Minnesota has a Joint Underwriting Association for foster parents.

Insurance through the State's self-insurance mechanism appeared to be a viable alternative because the Committee members believed that the State has some responsibility in providing insurance for foster parents who are caring for wards of the State. Respite is an important part of the system of care for handicapped children in order to provide relief to the parents or primary caregiver. The Director of the Risk Management Division of the Department of Administration spoke to the Committee about the possibilities of insuring foster parents and respite care providers through the State.

The Director of Risk Management believes that self-insurance is an attainable goal. His estimation was that the State could self-insure general liability, property damage liability and professional liability for neglect, sexual abuse, and alienation of affection for \$30.00 per foster child or respite patient with a \$250 deductible. The limit would be \$300,000 per occurrence and \$500,000 aggregate per year. If the State paid all premiums, it would cost \$82,000 per year at the current participation level. This premium would be adjusted up or down yearly based on loss experience figures. The premium would go toward losses only. There would be no administrative or other charges. If the State self-insures, the defense of any suit against the fund

would be provided by the Attorney General's Office. However, if a person is found guilty of a crime the policy would not cover any civil judgments against that person. Insurance policies generally do not cover criminal acts.

Self-insurance could only pay for amounts up to the limit. If liability for these two groups is not capped at the amount of coverage, then foster parents and respite care providers would be liable on a claim for amounts in excess of the coverage. State employees who are currently covered under the Maine Tort Claims Act and through the Risk Management Division have a \$300,000 limit on liability. Caps on liability are necessary to prevent the State from being exposed to limitless liability.

As an alternative to self-insurance, the Risk Management Division could purchase a group policy that would cover foster parents and respite providers if an attractive insurance policy could be found. A change in current law bringing foster parents and respite providers under the authority of the Risk Management Division would still allow the flexibility for the director to either self-insure or purchase a group policy.

Purchasing group insurance through an association is another alternative to individuals buying insurance. Since the Committee believes it is the State's responsibility to cover these individuals, the Committee believes that the option of purchasing group insurance by the State, is superior to an association purchasing the insurance and then charging it back to members.

Another alternative is a risk retention group or purchasing group authorized under federal law. However, there does not appear to be any such group registered in Maine at this time. A risk retention group could be started in the State, but it would take \$500,000 to \$1,000,000 to start one. It would be difficult for these groups to raise this much capital.

III. RESULTS FROM THE SURVEY OF NONPROFIT SERVICE ORGANIZATIONS

Five hundred-thirty questionnaires (See Appendix A) were sent out early in November, 1987. One hundred-eighty of the nonprofit service organizations responded (See Appendix B) representing a 35% return. About 77% of the respondents represented counseling and/or therapeutic services (20.6%), child care providers (29%), and adult care providers (27%).

The first question of the survey asked about insurance availability and affordability. Only 14% of the respondents found the cost of insurance for general liability unreasonable and decided not to purchase any. No respondents reported that insurance for general liability was unavailable. For director and officers liability 21% the respondents reported that they could not afford coverage and 40% could not find coverage at any price.

One set of questions asked about self-insurance, either alone or through a risk retention group. About 11% of the respondents had considered self-insuring their organizations and 5 agencies had actually attempted self-insuring. Only 4 respondents had attempted to join a risk pool or risk retention group, and 80.6% of the respondents were unfamiliar with the Federal Risk Retention Act. Half the respondents favored enactment of a State law to allow self-insurance pools, but only 24.4% indicated they would participate in a pool.

About 41% of the respondents answered that they do not have risk prevention or safety programs. Representatives from United Way of Maine testified that they are now educating their member agencies in risk management as a way of reducing insurance costs. Agencies are encouraged to identify exposures and decide on the best way to handle them. It is hoped that insurers will give credit to those agencies with active risk management programs and reduce premiums accordingly.

About 74% of the respondents reported that they had an increase in premium in the past few years. The increases ranged from 4.5% to 1900%.

A follow-up telephone survey was conducted by the Research Assistant to ask about claims experience. Sixteen agencies with increases of 250% or more were contacted. None reported any claims in the last year. Thirteen of the 16 had no claims during the past 2 years. Nine had no claims during the past 3 years. Ten agencies with increases of 32% or less were contacted. Four of these had 6 small claims during the last 2 years.

The Bureau of Insurance was asked to follow up on two categories of respondents, daycare facilities and counseling type agencies, to determine if there were unfair increases in premiums and if there was any justification for the variations in premiums among similar agencies. According to the Bureau of

Insurance there were four different reasons that caused the increase in premiums for daycare providers . Daycare facilities that obtained insurance through the market assistance plan created by the Bureau of Insurance had increases because insurers in the plan based the premium on the number of children being cared for rather than on the square footage of the facility as was customarily done before the market assistance plan was established. In other cases the calculation was changed from average number of children to actual number or number on the license. This change in the manner of calculation caused several premiums to increase.

Two other reasons for premium increases were incorrect data in the response and expanded coverage with proportionate increase in premiums from the base year. Incorrect data resulted when the reported figure included more than just daycare liability or when the figure reflected policies with a contract longer than one year.

One daycare facility had a very low premium compared to the other centers because it is self-insured through a religious organization. The premium was based on actual loss experience from the previous year.

Some of the reasons for increases in premiums for social service agencies that supply counseling/health services are similar to the reasons for increases in daycare premiums. Three agencies had increases due to additional coverage and exposure. Four increases were due to incorrect data with respect to the liability portion of a premium which included other coverages. Five increases were due to the charging of insufficient rates in 1986-87 by a company that subsequently became insolvent. The other increases can be attributed to an increase in the base rate, an increase in minimum premium, or a change in the type of policy. See Appendix C.

IV. SURVEY OF INSURANCE COMPANIES

A survey of property-casualty insurance companies was also attempted in order to see what role reinsurance has played in the liability insurance crisis. Three hundred thirty-one questionnaires (See Appendix D) were sent out and 64 were returned (19%). However, only 4 respondents indicated that they sold insurance to nonprofit service organizations in Maine. This sample was too small to draw any conclusion about the role of reinsurance in premium increases.

V. FINDINGS

1. Interstate Compacts

Interstate compacts have not been tried in any State. There might be problems in coordinating a compact because state insurance laws vary from state to state. Compacts may also lead to unavailability of a particular line of insurance if companies are forced to pull out of a profitable market in one state because of an unprofitable market in another state.

2. Experience Based Rating

None of the other states are requiring rates to be based on that state's experience alone at this time. Experience countrywide has an impact on Maine's premiums partly because of the cost of reinsurance. Since reinsurers are not regulated by the State, it would be difficult to control rates by requiring use of experience from Maine alone.

3. Foster care/Respite care

Many foster parents and respite care providers have been left wondering if their homeowner's insurance will cover them if they are sued. Generally foster parents are covered for ordinary liability. Neither group is covered for professional liability. Although there have been no suits in Maine against these groups, the threat of a possible suit has some of these providers questioning whether they will continue to provide their services

Endorsements on homeowners' policies negotiated by the Bureau of Insurance are inadequate to cover all the needs of these two groups. The State has some responsibility to provide insurance to these groups. Insurance for these two groups could be provided through the State Risk Management Division of the Department of Administration at a reasonable price. Capping the liability of these two groups would further protect them from suits.

4. Nonprofit Social Service Organizations

Major problems for nonprofit social service organizations do not appear to be widespread. Most are able to find insurance even though the cost of insurance has escalated in recent years. Few claims were reported by nonprofit social service agencies in Maine in the past few years even though most reported increases in premiums. Self-insurance either through a risk retention group or some other mechanism may not save these groups much money but may guarantee availability. Since there does not appear to be a problem with availability, self-insurance does not seem to be a viable alternative for these groups.

However, these groups are free to join a risk retention group or a purchasing group authorized through the Federal Risk Retention Act.

The Bureau of Insurance reported that there are 23 risk purchasing groups relating to health, 2 relating to counseling, 3 relating to child care, and 2 relating to adult care now registered with the State. There is 1 risk retention group relating to housing, 1 relating to health, and 1 relating to education now registered with the State.

The use of a MAP for daycare has helped alleviate the availability of liability insurance for that group even though not all providers were able to pay a higher price for coverage. The use of MAP's for other groups would probably help alleviate other problems of availability if they arose as well.

MAP's organized in the future may be more easily established. The daycare MAP was the first in Maine. Since there was no experience with MAP's, there was a time lag before it became operational. Several facilities closed for lack of insurance before the MAP was established.

Daycare providers and nonprofit service organizations seem to be confused about all aspects of insurance. Many were unable to understand the terms and costs of their policies. For example, daycare providers were not sure how their premiums were calculated. Consumers of insurance need to be better educated about insurance. Agents could and should play a larger role here. The Independent Insurance Agents Association of Maine has a new governmental affairs division. Information will be sent through this division encouraging better communication with clients. This division will serve as a liason between agents' concerns and the Bureau of Insurance.

VI. RECOMMENDATIONS

1. The Risk Management Division of the Department of Administration should be authorized to self-insure or purchase a group policy for foster parents and respite care providers. Their liability should be capped at \$300,000 per occurrence. The State should pay the premium for all foster parents and respite care providers. (See Appendix E)
2. The Bureau of Insurance should be responsible for the establishment of MAP's to help with availability problems of nonprofit social service organizations. Legislation for this responsibility should be added to the bill establishing a JUA (LD 380).
3. The JUA bill (LD 380) before the Banking and Insurance Committee during the 2nd Regular Session of the 113th Legislature should be amended to include nonprofit social service organizations.
4. At some point if licensing is required by the State and market conditions warrant it, then the State should consider insuring nonprofit social service organizations that contract with the State through the Risk Management Division of the Department of Administration.
5. The Committee supports the proposal to grant immunity to officers and directors of charitable organizations from the Commission to Examine Tort Litigation and Liability Insurance in Maine. The Committee recommends that the Judiciary Committee report out the bill on this issue "Ought to pass".
6. A bulletin of information regarding the MAP for daycare, JUA's, risk management, and risk retention groups and purchasing groups should be written by the appropriate state agency and sent to consumers of insurance in daycare and nonprofit social service agencies. The Committee will supply the necessary information to the appropriate agencies.
7. The Bureau of Insurance consumer division should be strengthened in order to help consumers of insurance be better informed. The staffing level at the consumer division should allow for prompt responses to consumer complaints and should function as an educational resource for the public. Information regarding changes in insurance products should be made available to the public.

FOOTNOTES

1. Maine, 24-A MRSA §2303; Massachusetts, ALM GL c.175A §5(a)(1); New York, Book 27 Insurance Law §2304(a); Nebraska, Revised Statutes of Nebraska 1943, §44-1403(1); New Hampshire, Book 4-A, 414:3(II); Vermont, c. 128 T.8 §4686(1); Connecticut, Title 38 §38-201c; Rhode Island, Title 4B, 27-9-4.
2. Risk Retention Amendments of 1986, United States Code, Title 15, Section 3901, et seq.
3. Respite is short-term care provided for a fee to a disabled individual in order to give some relief to the primary care giver.

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APPENDICES

Appendix A

Survey of Nonprofits

SENATE

RAYNOLD THERIAULT, DISTRICT 1, CHAIR
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DONALD F. COLLINS, DISTRICT 2

JERI GAUTSCHI, LEGISLATIVE ANALYST
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STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE

November 3, 1987

To: Questionnaire Recipients
From: The Joint Select Committee on Banking and Insurance
Re: Liability Insurance and the Non-profit sector

In June of 1987, the Maine Legislature directed the Joint Select Committee on Banking and Insurance to study the relationship between non-profit service agencies and professional liability and other hard-to-obtain lines of liability insurance.

For many Insurance Companies, providing affordable liability coverage is either an impossible or improbable task. The availability of reinsurance, risky lines of coverage, self-insurance, risk pooling and other alternatives to their services as well as an uncertain investment climate have all contributed to the present conflict in the liability market. This study will focus on the extent of these problems and their possible solutions.

The Committee must report back to the full legislature in the upcoming session. We ask for your help in solving this most immediate of problems.

Please take a couple of minutes to fill out the enclosed questionnaire and return it to us by November 23. Your answers could provide the information that we need to solve the crisis at hand.

Thank you.

LIABILITY INSURANCE AND THE NON-PROFIT SECTOR
TOWARD A SOLUTION

Please take a moment to fill out the attached questionnaire. The availability of affordable liability insurance exists as a major concern for the modern nonprofit agency. Self-insurance, risk pooling and other alternatives to the commercial market are being utilized to counteract the high costs. Through your completion of this questionnaire the Maine Legislature hopes to find some answers that will give a better understanding of the crisis and to identify solutions to the problem. Please complete and return by November 23.

Agency Name: _____

Address: _____

City: _____ ZIP: _____

Person Completing Form: _____

Title: _____

Phone Number: _____ Are you nonprofit ? () Yes () No

Operating Budget: \$ _____ for Fiscal Year 19 _____

In what year did your agency begin operations ? _____

1) Please check any or all boxes as they apply to the organization's liability insurance needs:

TYPE OF INSURANCE	NO POLICY PURCHASED		I I I	POLICY PURCHASED		NA	BLANK
	NOT REQUIRED	REQUIRED BUT UNAVAILABLE		AVAILABLE BUT PRICED UNREASONABLY	REASONABLE WITH RESTRICTIONS		
GENERAL LIABILITY INSURANCE	I 4/2.2 I	I 0/0 I	I	I 26/14 I	I 83/46 I	I 13/7 I	I 4/2 I
DIRECTORS-OFFICERS LIABILITY	I 18/10 I	I 7/4 I	I	I 37/21 I	I 63/35 I	I 22/12 I	I 4/2 I
OTHER (SPECIFY _____)	I 1/1 I	I 1/1 I	I	I 11/6 I	I 39/22 I	I 104/58 I	I 3/2 I
OTHER (SPECIFY _____)	I 0/0 I	I 1/1 I	I	I 4/2 I	I 11/6 I	I 151/84 I	I 3/2 I
DON'T KNOW	I 2/1 I					I 176/98 I	I 2/1 I

- 2) Are you familiar with the Federal Risk Retention Act ?
- | | | | | |
|---------|--------|----------------|-----------|-------|
| 16 | 145 | 12 | 5 | 2 |
| () Yes | () No | () Don't know | No Answer | Blank |
| 8.9 | 80.6 | 6.7 | 2.8 | 1.1 |
- 3) If yes, is there a risk retention group that you could join ?
- | | | | | |
|---------|--------|----------------|-------|-----|
| 5 | 5 | 68 | 100 | 2 |
| () Yes | () No | () Don't know | | |
| 2.8 | 2.8 | 37.78 | 55.56 | 1.1 |
- 4) Have you ever considered or attempted self-insuring your organization : (Check all that apply)

	ATTEMPTED	CONSIDERED	NEITHER	DON'T KNOW	NA	BLANK
Alone	5 () 2.8	19 () 10.6	97 () 53.89	16 () 8.9	41/22	2/1
In Risk Pool	3 () 1.7	11 () 6.11	93 () 51.67	19 () 10.5	52/29	2/1
In Risk Retention Group	1 () .56	6 () 3.33	96 () 53.33	21 () 11.7	54/30	2/1
Other	2 () 1.11	8 () 4.44	74 () 41.11	16 () 8.89	78/43	2/1

- 4a) If yes, why ? (Check all that apply)

28/12.9 () Unavailability of reasonably priced liability insurance

12/5.53 () Policy cancellation

9/4.15 () Increased deductible

24/11.06 () Increased premium

5/2.3 () Other (Specify) _____

7/3.23 () Don't know

132/61 () No Answer

- 4b) If no, why ? (Check all that apply)

27/12 () Availability of reasonably priced liability insurance

7/3.1 () Member of a group insurance plan

36/16 () Too risky

67/29.78 () Unfamiliar with the Federal Risk Retention Act

4/1.78 () Do not need liability insurance

14/6.22 () Other (Specify) _____

12/5.33 () Don't know

58/25.78 () No Answer

- 5) Have you experienced a midterm cancellation of liability insurance ?

23	145	1	7	4
() Yes	() No	() Don't know	No Answer	Blank
12.78	80.56	.56	3.89	2.22

- 6) If yes, did you (Check all that apply)

19/82.6 () Find another insurance carrier

0/0 () Self-insure

6/23.07 () Go without liability insurance

0/0 () Cut back on services

2/7.6 () Other (Specify) _____

0/0 () Don't know

154/85.1 () No Answer

7) Has your insurance company refused to renew a policy that was in force ?

55	113	1	8	3
() Yes	() No	() Don't know	No Answer	Blank
30.56	62.78	.56	4.44	1.67

8) If yes, did you (Check all that apply)

46/83.64	() Find another insurance carrier ?
3/5.55	() Self-insure ?
7/12.73	() Go without property-casualty insurance ?
0/0	() Cut back on services ?
9/16.36	() Other (Specify) _____ ?
0/0	() Don't know
69/51.49	() No Answer

9) Has your insurer reduced your coverage ?

43	118	5	12	2
() Yes	() No	() Don't know	No Answer	Blank
23.89	65.56	2.78	6.67	1.1

10) If yes, in what ways ? (Check all that apply)

24/55.81	() Limited the kinds of areas covered
20/45.65	() Reduced dollar amount of coverage
12/27.93	() Instituted a deductible
23/53.49	() Increased the deductible
4/9.3	() Other _____
1/.23	() Don't know
133/61.29	() No Answer

11) Has your insurance company instituted an increase of your liability insurance premiums ?

122	31	12	13	2
() Yes	() No	() Don't know	No Answer	Blank
67.78	17.22	6.67	7.22	1.11

11a) If yes, how much ?

From: \$ _____ To: \$ _____

11b) If yes, how did your agency deal with the higher premium cost ? (Check all that apply)

62/50.81	() Asked funding source for increase
26/20.3	() Cut back services
9/7.3	() Cut back staff
34/27.80	() Raised fees
11/9.0	() Lowered coverage limits
12/9.84	() Raised deductibles
33/27.00	() Other (specify) _____
2/1.6	() Don't know
54/30	() No Answer

12) Do you favor the enactment of a state law to provide for risk pools as alternatives to commercial liability insurance ?

90	4	75	9	2
() Yes	() No	() Don't know	No Answer	Blank
50	2.22	41.67	5	1.11

- 13) If such a measure were enacted, would you participate ?
- | | | | | |
|---------|--------|----------------|-----------|-------|
| 44 | 6 | 117 | 11 | 2 |
| () Yes | () No | () Don't know | No Answer | Blank |
| 24.44 | 3.33 | 65 | 6.11 | 1.11 |
- 14) How many volunteers do you use ?
- | | | | | | |
|--------------|----------------|---------------|-----------|-----------|------------|
| 28/16 | 30/17 | 13/7 | 24/13 | 31/17 | 15/8.33 |
| () 0 | () 1-5 | () 6-10 | () 11-20 | () 21-50 | () 51-100 |
| () over 100 | () Don't know | () No Answer | () Blank | | |
| 28/15.56 | 3/1.67 | 6/3.33 | 2/1.11 | | |
- 15) How many paid (including part time) employees are there on staff ?
- | | | | | | |
|--------------|----------------|---------------|-----------|-----------|------------|
| 3/1.67 | 36.20 | 19/10.56 | 38/21.1 | 30/16.7 | 20/11.11 |
| () 0 | () 1-5 | () 6-10 | () 11-20 | () 21-50 | () 51-100 |
| () over 100 | () Don't know | () No Answer | () Blank | | |
| 28/15.56 | 0/0 | 4/2.22 | 2/1.11 | | |
- 16) How many clients do you serve ?
- | | | | | |
|--------------|---------------|----------------|---------------|-------------|
| 2/1.11 | 29/16.11 | 18/10.0 | 14/7.78 | 26/14.44 |
| () 0 | () 1-50 | () 51-100 | () 101-200 | () 201-500 |
| () 501-1000 | () over 1000 | () Don't know | () No Answer | () Blank |
| 13/7.22 | 68/37.78 | 4/2.22 | 4/2.22 | 2/1.11 |
- 17) Check the one box that indicates the number of sites from which you provide services.
- | | | | | | | |
|-------|---------|----------|----------------|----------------|------|-------|
| 54 | 72 | 22 | 25 | 1 | 4 | 2 |
| () 1 | () 2-5 | () 6-10 | () 11 or more | () Don't know | NA | Blank |
| 30.0 | 40.0 | 12.22 | 13.89 | .56 | 2.22 | 1.11 |
- 18) What is the age of most of your clients ?
- | | | | |
|----------------------------------|----------------|-----------|-----------------|
| 25/13.89 | 17/9.44 | 72/40.0 | 13/7.22 |
| () 0-5 | () 6-17 | () 18-59 | () 60 and over |
| () Evenly spread among all ages | () Don't know | No Answer | () Blank |
| 38/21.11 | 7/3.89 | 6/3.33 | 2/1.11 |
- 19) At what income level is the majority of your clients ?
- | | | | | | |
|---------|------------|--------------|----------------|-----------|-------|
| 114 | 37 | 2 | 18 | 7 | 2 |
| () Low | () Middle | () Affluent | () Don't know | No Answer | Blank |
| 63.33 | 20.56 | 1.11 | 10 | 3.89 | 1.11 |
- 20) Does your agency have a risk prevention or safety program ?
- | | | | | |
|---------|--------|----------------|-----------|-------|
| 74 | 82 | 15 | 7 | 2 |
| () Yes | () No | () Don't know | No Answer | Blank |
| 41.11 | 45.56 | 8.33 | 3.89 | 1.11 |
- 21) What steps has your agency taken to reduce its risk ?
(Check all that apply)
- | | |
|-----------|--|
| 106/48.85 | () Identified potential risks to agency |
| 63/29.03 | () Set up safety program |
| 3/1.38 | () Reduced programs |
| 1/.46 | () Reduced staff |
| 2/.92 | () Closed down operations |
| 34/15.67 | () Other (Specify) _____ |
| 8/3.69 | () No Answer |
- 22) Check the one box that best describes the services provided by your agency.
- | |
|--|
| () Adult care |
| () Child care |
| () Camping Services |
| () Counseling and-or therapeutic services |

CONTINUED

- () Cultural Service Organization (Include performing group, sponsor, museum, gallery, etc.)
- () Home repair and-or weatherization
- () In-home services (chore, home health, food preparation)
- () Nursing and-or custodial care
- () Nutritional services (chore, home health, food preparation, etc.)
- () Medical care
- () Case management
- () Transportation
- () Job-employment training (including work experience and job clubs)
- () Physical fitness (swimming, aerobics, weights, jogging, gymnastics, etc.)
- () Product manufacturing-preparation (includes sheltered workshops)
- () Residential care (includes child and adult group foster care, emergency shelters, halfway houses, etc.)
- () Youth character building
- () Other (specify) _____

23) Comments: _____

Thank you for your time.

Appendix B

List of Respondents

i

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Non-profit Questionnaire Respondents
Banking and Insurance Committee

Record Agency Name
#

99
119
10 ABNAKI GIRL SCOUT COUNCIL
85 ACTION OPPORTUNITIES, INC.
133 ALLIANCE/MENTALLY ILL OF ME
16 ALPHA ONE
164 AMERICAN LUNG ASSN OF ME
169 ANDR. VALL. COUNCIL OF GOV'S
103 ANDROSCOGGIN COUNTY HEAD START
134 ANDROSCOGGIN HOME HEALTH SVS
33 AROOSTOOK AREA AGENCY ON AGING
179 AROOSTOOK COUNTY ACTION PGM
156 AROOSTOOK COUNTY EMS COUNCIL
148 AROOSTOOK HOME CARE AGENCY INC
54 AROOSTOOK MENTAL HEALTH SER.
51 AROOSTOOK VALLEY HEALTH CTR.
19 ARTHRITIS FOUNDATION-MAINE CH
24 ARTHUR JEWELL COMMUNITY HEALTH
64 AUGUSTA ALLIANCE/MENTALLY ILL
11 BANGOR YMCA
98 BANGOR/BREWER YMCA
124 BATH AREA FAMILY YMCA
122 BATH MEMORIAL HOSPITAL
168 BB AREA CHILD ABUSE COUNCIL
84 BB MENTAL HEALTH ASSN.
58 BB RAPE CRISIS HOTLINE
70 BIG BROTHERS/SISTERS OF S. ME
63 BOYS & GIRLS CLUBS OF GR. PORT
4 BRUNSWICK HOUSING AUTHORITY
5 CAMP FIRE HITINOWA COUNCIL, INC
17 CATHERINE MORRILL DAY NURSERY
138 CENTRAL AROOSTOOK/RETARDED CIT
27 CEREBRAL PALSY CENTER
72 CHILD HEALTH CENTER
125 CHILDREN'S CIRCLE
115 CITIZENS INTEREST GROUP
60 COASTAL ADOPTION PLACEMENT SVS
104 COASTAL WORKSHOP
82 COMMONSENSE HOUSING, INC.
120 COMMUNITY HEALTH/COUNSELING SV
21 COMMUNITY SUPPORT SERVICES INC
49 CREATIVE WORK SYSTEMS
22 CTR FOR COMM DENTAL HEALTH
18 CTRL ME AREA AGENCY ON AGING
117 CUMB.CTY CHILD ABUSE/NEGLECT C
161 CUMBERLAND COUNTY BAIL PROJECT
95 DANFORTH HABILITATION ASSOC.
57 DAVIS FOSTER HOME
80 DIOCESAN HUMAN RELATIONS SVS
152 DOWNEAST HEALTH SERVICES

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01/01/80

Non-profit Questionnaire Respondents
Banking and Insurance Committee

Record Agency Name
#

97 DUBLIN HILL CHILDREN'S CENTER
177 EAST END CHILDREN'S WKSP
96 EAST GRAND HEALTH CENTER
143 EASTERN AREA AGENCY ON AGING
37 EASTN TRANSPORTATION SERVICES
113 ELMHERST ASSOC. /RETARDED CIT.
111 FAMILY PLANNING ASSOC. OF ME
3 FOR DEVELOPMENTAL RESOURCES
20 FOUNDATION FOR BLOOD RESEARCH
100 FRANKLIN COUNTY C.A. COUNCIL
25 FREEPORT COMMUNITY SERVICES
66 G.R.D.W.
109 GOOD SAMARITAN AGENCY
67 GOODWILL INDUSTRIES OF ME, INC.
146 GRACE EPISCOPAL CHURCH
52 GREEN VALLEY ASSOC.
28 GROUP HOME FOUNDATION
114 GROUP MAIN STREAM
144 HARBOR HOUSE
140 HOME COUNSELORS, INC.
180 HOPE HOUSE INC.
26 INGRAHAM VOLUNTEERS, INC.
48 JEWISH COMMUNITY CENTER
92 K/S ALCOHOL & DRUG ABUSE CNCL.
89 KEN-A-SET ASSOC./RETARDED, INC
71 KENNEBEC GIRL SCOUT COUNCIL
142 KENNEBEC VALLEY RED CROSS
128 KENNEBEC VALLEY VTI
69 KENNEBEC VALLEY YMCA
158 KNO-WA-LIN COMMUNITY HEALTH SV
129 KV MENTAL HEALTH CTR.
162 KVRHA
56 LEGAL SERVICES FOR THE ELDERLY
87 LEISURE CENTER / HANDICAPPED
101 LIGHTHOUSE DAY SCHOOL & DAY CR
150 LOOKING UP
45 MAINE CENTER FOR THE BLIND
12 MAINE CTR FOR EDUCATIONAL SER.
93 MAINE HEALTH INFORMATION CTR.
136 MAINE ST HOUSING AUTHORITY
74 MDI HELPERS, INC.
108 ME HOME/LITTLE WANDERERS
14 ME INDEPENDENT LIVING CTR, INC
91 ME VOCATIONAL TECH INST. SYS.
9 MEALS FOR ME, INC.
35 MID COAST CHILDREN'S SERVICES
73 MID COAST E.M.S COUNCIL, INC.
34 MID ME ALLIANCE / MENTALLY ILL
178 MID STATE UNITED CEREBRAL PAL.
160 MID-COAST HUMAN RESOURCES CNCL

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Non-profit Questionnaire Respondents
Banking and Insurance Committee

Record Agency Name
#

90 MID-COAST MENTAL HEALTH
44 MILESTONE FOUNDATION, INC.
75 MOBIUS, INC.
174 MOTIVATIONAL SERVICES, INC.
137 MVTIS
53 N. AROOSTOOK ALTERNATIVES
157 NATL COUNCIL/ ALCOHOLISM IN ME
123 NE HEARING AND SPEECH CTR., INC.
31 NEW HOPE FOR WOMEN
47 OLD TOWN- ORONO YMCA
2 OPPORTUNITIES
39 PASSAMAQUODDY DAY CARE
1 PASSAMAQUODDY TRIBE
139 PEARL RESIDENTIAL FACILITY
29 PENOBSCOT COUNTY
78 PENQUIS C.A.P., INC.
159 PEOPLE PLACE
46 PINE TREE CH, AM. RED CROSS
167 PINE TREE LEGAL ASSISTANCE
13 PORTLAND YMCA
30 POTTLE HILL INC.
62 PROJECT ATRIUM, INC.
43 PROJECT CO-STEP
83 PROJECT SEARCH
132 PTLD COL/ PSY LABLED
107 PTLD WEST NEIGHBORHOOD PLNG PJ
126 QUALITY DAY CARE INC.
170 RAITS
77 RAPE CRISIS ASSISTANCE, INC.
36 RAPE CRISIS CNETER, INC.
118 RURAL HEALTH CENTERS OF ME
154 S PORTLAND HEALTH SERVICES
8 S. COASTAL FAMILY PLANNING
76 S. KENNEBEC CHILD DEVEL. CORP.
176 SACOPEE VALLEY HEALTH CENTER
171 SACOPPEE VALLEY HEALTH CENTER
81 SALVATION ARMY- PORTLAND
40 SEBASTICOOK FARMS
23 SERENITY HOUSE
86 SEXUAL ASSAULT CRISIS CENTER
6 SEXUAL ASSAULT VICTIMS EGY SER
32 SANDY RIVER REHABILITATION CTR
127 SO ME AREA AGENCY ON AGING
50 SO. ME REGIONAL PLANNING COMM.
15 SPRUCE RUN ASSOCIATION
149 ST. CROIX BUS SERVICE
55 ST. JOSEPH DAY CARE CENTER
79 ST. JOSEPH HOSPITAL
94 ST. ELIZABETH'S CHILD DEVEL CTR
112 SUNSHINE CHILD CARE CENTER

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Non-profit Questionnaire Respondents
Banking and Insurance Committee

Record Agency Name
#

175 THE AROOSTOOK MEDICAL CENTER
135 THE CRISIS AND COUNSELING CTR
151 THE FAMILY CRISIS SHELTER
61 THE JACKSON LABORATORY
110 THE PROGRESS CENTER
116 TOGETHER PLAN
172 TOWN OF GRAND ISLE
145 TRI COUNTY MENTAL HEALTH SVS
141 UNION CAMBODIAN ASSN.
147 UNITED CEREBRAL PALSY/ N. ME
42 UNIVERSITY OF NEW ENGLAND
41 UPLIFT, INC.
88 VALLEY ALLIANCE / MENTALLY ILL
7 WALDO CNTY PRESCHOOL SERVICES
163 WALDO COUNTY CHILD & PARENT CNL
105 WALDO COUNTY GENERAL HOSPITAL
166 WALDO CTY COMMITTEE/SOCIAL ACT
38 WASH CNTY REG. PLANNING COMM.
59 WASHINGTON CNTY CHILDREN'S FGM
102 WASHINGTON HANCOCK COMMUNITY AG
131 WESTBROOK RLDS CORP
68 WESTERN MAINE COUNSELING SVS
173 WEYMOUTH HOUSE, INC.
153 WOMEN KIND, INC.
106 WOMENCARE/AEGIS ASSOC.
165 YMCA
121 YORK HOSPITAL
130 YOUTH ALTERNATIVES OF SO ME.
65 YOUTH AND FAMILY SERVICES, INC
155 YWCA OF PORTLAND

Appendix C

Reasons for Increases in Premium

POLICY TERM PREMIUM COMPARISON

-DAY CARE-

RECORD #	ORGANIZATION	1984-5	P R E M I U M		1987-8	EXPLANATION
			1985-6	1986-7		
112	Sunshine Child Care Ctr. \$		\$ 176.	\$ 350.	\$ 400.	Market Assistance Plan: Change in rating base from area to number of children; increased in number of children. (average to actual).
94	ST. Elizabeth's Child Development Ctr. SIR		387.	455.		Allocated increase due to adverse loss experience of the previous year.
125	Children's Circle		200.	850.	850.	MAP rating base.
126	Quality Day Care			350	650.	MAP rating base.
55	St. Joseph's Day Care		690.	2,350.		MAP rating base.
101	Lighthouse Day Care	1,776.	1,776.	1,776.	2,782. (3-yr.)	Rate increase from 8.80 to 11. partially offset by a 15% credit on the total premium.
17	Catherine Morrill Day Nursery			2,245.	2,875.	MAP rating base.
85	Action Opportunities	377.	967.	5,900.		First increase due to increase on locations when rated on area basis. 2nd increase due to MAP rating base. (per children)
76	So. Kennebec Child Development		7,175.	8,581.	9,600.	Invalid source data.
100	Franklin County C. A. Council		6,707.	7,663.		Increase number of children.
72	Child Health Ctr. (not a day care center)		6,497.	11,153.	10,866.	Includes: Professional liability for 2 physicians for year 2; left in year 3, Directors and Officers not reflected in year 1. Increase in outpatient visits in year 2.

POLICY TERM COMPARISON
- NOT FOR PROFIT AGENCIES -
SOCIAL SERVICES

RECORD #	ORGANIZATION	POLICY TYPE	1984-5	1985-6	1986-7	1987-8	EXPLANATION
31	New Hope for Women	General Liability			\$ 250.	\$ 272.	Limit increased \$300,000. to \$400,000. added medical payments
59	Washington County Children's Program	General Liability		\$ 333.	333.	333.	3-year policy.
58	B.B. Rape Crisis Hotline	Professional Liability			500.	750.	Increase in minimum premium.
117	Cumberland County Child Abuse/Neglect	Directors & Officers			545.	900.	Increase in minimum premium.
123	N. E. Hearing & Speech Ctr., Inc.	Business Owners & Umbrella			400. 300.	441. 450.	Increase in rating base Increase in underlying.
8	So. Coastal Family Planning	Professional Liability 2 Nurse Practitioners 1 Physician's Assistant			835.	2,000.	Physician's Assistant 2nd year claims-made.
140	Home Counselors, Inc.	Professional Liability			1,396.	2,875.	*Integrity (based on number of professionals to Western World (out-patient visits) rating basis change.
152	Downeast Health Services	Owners, Landlords, & Tenants			896.	1,274.	Added a location.
150	Looking Up	Professional Liability			1,388.	3,050.	Outpatient visits number 200 to 350. Staff increase 5 to 7.
111	Family Planning Association of ME	Directors & Officers		1,800.	3,250.		Increase in minimum

*Integrity Insurance became insolvent due to rate inadequacy, and was unable to renew.

POLICY TERM COMPARISON
- NOT FOR PROFIT AGENCIES -
SOCIAL SERVICES

RECORD #	ORGANIZATION	POLICY TYPE	1984-5	1985-6	1986-7	1987-8	EXPLANATION
14	Maine Independent Living Center, Inc.	Directors & Officers			\$ 2,000.	\$ 5,000.	*Integrity minimum to International: Crum & Forster
156	Aroostook County EMS Council	Directors & Officers			3,201.	5,100.	No alternative markets. Increase in minimum premium.
109	Good Samaritan Agency	Directors & Officers			3,651.	4,710.	2nd year claims-made.
135	The Crisis and Counseling Ctr.	Professional Liability General Liability Personal Injury Additional Insureds Part-Time Counselors		\$5,738.	8,041.		Rate increase.
68	Western Maine Counseling Services	Directors & Officers Liability General Liability Professional Liability			1,700.	2,500.	*Integrity to National Casualty; inclusion of General Liability & Professional Liability in year 2.
65	Youth & Family Services, Inc.	Directors & Officers Professional Liability	\$ 450.	450.	450. 10,725.	4,200. 11,245.	Additional insured
3	For Development Resources	Professional Liability Owners, Landlords, & Tenants, Auto, Directors & Officers			4,169.	7,821.	Increase in Professional Liability (increase in staff) minimum premium; auto rate increase; Owners, Landlords, & Tenants/Auto same as before.

*Integrity Insurance became insolvent due to rate inadequacy, and was unable to renew.

POLICY TERM COMPARISON
- NOT FOR PROFIT AGENCIES -
SOCIAL SERVICES

<u>RECORD #</u>	<u>ORGANIZATION</u>	<u>POLICY TYPE</u>	<u>1984-5</u>	<u>1985-6</u>	<u>1986-7</u>	<u>1987-8</u>	<u>EXPLANATION</u>
45	Maine Center for the Blind	Directors & Officers			\$7,084.	\$7,792.	Increase in outpatient visits.
90	Mid-Coast Mental Health	Professional Liability General Liability Directors & Officers			8,360. 4,580. <u>1,500.</u> 14,440.	15,470. (incl.) <u>2,100.</u> 17,570.	*Integrity to Lexington.
84	B.B. Mental Health Association	Professional Liability (includes general liability) Directors & Officers			12,671. <u>12,671.</u>	30,472. <u>1,850.</u> 32,322.	*Integrity to Lloyds. yr. 1 Professional only yr. 2 Professional & Directors & Officers

*Integrity Insurance became insolvent due to rate inadequacy, and was unable to renew.

Appendix D

Survey of Insurance Companies

APPENDIX D: INSURANCE COMPANIES QUESTIONNAIRE

SENATE

RAYNOLD THERIAULT, DISTRICT 1, CHAIR
BEVERLY MINER BUSTIN, DISTRICT 19
DONALD F. COLLINS, DISTRICT 2

JERI GAUTSCHI, LEGISLATIVE ANALYST
SANDRA CHESLEY, COMMITTEE CLERK



HOUSE

CHARLENE B. RYDELL, BRUNSWICK, CHAIR
PHYLLIS R. ERWIN, RUMFORD
HERBERT E. CLARK, MILLINOCKET
P. KELLEY SIMPSON, CASCO
ROBERT J. TARDY, PALMYRA
RICHARD H.C. TRACY, ROME
JOHN C. BOTT, ORONO
MARY C. WEBSTER, CAPE ELIZABETH
PHILIP E. CURRAN, WESTBROOK
JOSEPH A. GARLAND, BANGOR

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE

November 17, 1987

To: Insurance Carriers

In June of 1987, the Maine Legislature directed the Joint Select Committee on Banking and Insurance to study the relationship between non-profit service agencies and professional liability and other hard-to-obtain lines of liability insurance.

For many Insurance Companies, providing affordable liability coverage is either an impossible or improbable task. The availability of reinsurance, risky lines of coverage, self-insurance, risk pooling and other alternatives to their services as well as an uncertain investment climate have all contributed to the present conflict in the liability market. This study will focus on the extent of these problems and their possible solutions.

The Committee must report back to the full Legislature in the upcoming session. We ask for your help in solving this most immediate of problems.

Please take a few minutes to fill out the enclosed questionnaire and return it to us by November 30. Your answers could provide the information that we need to prevent future crises.

Thank you.

Sincerely,

Handwritten signature of Raynold Theriault.

Raynold Theriault
Senate Chair

Handwritten signature of Charlene Rydell.

Charlene Rydell
House Chair

2686m

LIABILITY INSURANCE AND THE NON-PROFIT SECTOR
THE PROPERTY- CASUALTY CONNECTION

Please take a few moments to fill out this questionnaire. For non-profit organizations, the availability of affordable liability insurance exists as a major concern. Because of their budget inflexibility, they often have difficulty absorbing the increased costs associated with proper coverage. Through your cooperation in filling out this questionnaire, the Maine Legislature hopes to better understand the situation and identify possible solutions to the problem. Please complete and return by November 30.

Company Name: _____

Address: _____

City: _____ ZIP: _____

Person Completing Form: _____

Title: _____

Phone Number: _____

1) Do you insure non-profit organizations in Maine ?

☐ Yes ☐ No

2) If yes, how many Maine non-profits do you insure ?

2a) What percentage of your business in Maine does this figure represent ?

_____ %

3) In the past 12 months, what was the dollar amount of earned premiums for non-profit agencies in Maine ?

\$ _____

4) In the past 12 months, how many claims by Maine non-profits were incurred ?

4a) Representing how much in claims ?

\$ _____

RATE INCREASE

5) In the past 12 months have you had to increase rates for property-casualty coverage to non-profits in Maine ?

☐ Yes ☐ No

5a) If yes, by how much ? _____%

5b) If yes, what were your reasons ? (Check appropriate box for each line)

	Major Reason	Minor Reason	Not A Reason
Unavailability of reinsurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increase in cost of reinsurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increase of perceived risk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
To provide more coverage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (Specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (Specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5c) If yes, did you submit a rate filing ?

☐ Yes ☐ No

POLICY NON RENEWAL

6) In the past 12 months have you refused to renew a policy that was in force to non-profits in Maine ?

☐ Yes ☐ No

6a) If yes, how many ? _____

6b) If yes, what were your reasons ? (Check appropriate box for each line)

	Major Reason	Minor Reason	Not A Reason
Cancellation of reinsurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increase in cost of reinsurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increase of perceived risk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Don't insure in this line anymore	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (Specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (Specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

REINSURANCE

7) Has your reinsurer limited the kinds of coverage you can offer to Maine non-profits ?

☐ Yes ☐ No

8) Has your reinsurer limited the amount of coverage you can offer to Maine nonprofits ?

☐ Yes ☐ No

9) Have you experienced an increase in the amount you must pay for reinsurance for non-profit agencies ?

☐ Yes ☐ No

10a) If yes, by what percentage ?

_____ %

10b) If yes, how did your company deal with the higher reinsurance cost ? (Check all that apply)

- ☐ Dropped unpredictable lines of coverage
- ☐ Dropped frequent claimants
- ☐ Raised premiums
- ☐ Lowered coverage limits
- ☐ Raised deductibles
- ☐ Cut back staff
- ☐ Other (specify) _____
- ☐ Other (specify) _____
- ☐ Don't know

RISK SHARING

11) If a state law to provide for risk pools as alternatives to commercial liability insurance were enacted, would you:

	Definitely	Possibly	No	Don't Know
Cut back services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cut back staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raise premiums	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lower premiums	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lowered coverage limits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raise coverage limits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raise deductibles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lower deductibles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12) If non-profit organizations formed a risk retention group
would your premiums:?

☐ Go Up ☐ Stay the same ☐ Go Down ☐ Don't know

13) Would reinsurance rates:

☐ Go Up ☐ Stay the same ☐ Go Down ☐ Don't know

COMMENTS

14) Please add any comments or additional information which
would be helpful in our deliberations:

Thank you for your time.

Appendix E

Proposed Legislation

DRAFT LR#

JG 2/11/88
B&I 3843*

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY SEVEN

AN ACT to Provide a Mechanism for Insurance for
Foster Care and Respite Care

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

Sec. 1. 22 MRSA §8101, sub-§ 3 is amended to read:

3. Family foster home. "Family foster home" means a ~~children's~~ home that is a private dwelling where substitute parental care is provided within a family to children on a regular 24-hour a day, residential basis. The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. The provision of a "family foster home" is a state activity for the purpose of obtaining insurance pursuant to 5 MRSA §1728-A. In any action for damages against a "family foster home" provider, the claim for and award of damages, including costs, shall not exceed \$300,000 for any and all claims arising out of a single occurrence.

Sec. 2. 34-B MRSA §6201 is amended to add the following sub-§:

2-A. Respite Care. "Respite care" is a State activity which provides temporary care-giving to a child or an adult for the purpose of relieving that persons' family or another primary care-giver. Persons who have completed the training

program for respite care providers through the Department of Human Services or the Department of Mental Health and Mental Retardation are eligible for any insurance provided to family foster home providers pursuant to 22 MRSA §8101, sub-§3, and 5 MRSA §1728-A. In any action for damages against a "respite care" provider, the claims for and award of damages, including costs, shall not exceed \$300,000 for any and all claims arising out of a single occurrence.

STATEMENT OF FACT

This bill defines "family foster home" and "respite care" as a state activity so that the Department of Risk Management can obtain insurance or self-insurance for foster parents and respite care providers. It also adds a definition of respite care. The liability of these providers is capped at \$300,000 per occurrence.