

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1580

H.P. 1142

House of Representatives, April 16, 2019

An Act To Protect Licensing Information of Medical Professionals

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MOONEN of Portland.

Cosponsored by Representatives: ALLEY of Beals, HYMANSON of York, McCREA of Fort Fairfield, O'NEIL of Saco, PERRY of Calais, Senators: CLAXTON of Androscoggin, GRATWICK of Penobscot.

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

2 **Sec. 1. 32 MRSA §2109-A** is enacted to read:

3 **§2109-A. Inspection or copying of record; procedure**

4 **1. Request for licensing file; redaction.** When the board receives a request to
5 inspect or copy all or part of the licensing file of an applicant or licensee, the board shall
6 redact information that is not public before making the file available for inspection or
7 copying.

8 **2. Notice and opportunity to review.** When the board acknowledges a request to
9 inspect or copy an applicant's or a licensee's licensing file as required by Title 1, section
10 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the
11 applicant's or licensee's last address on file with the board explaining that the request has
12 been made and that the applicant or licensee may review the redacted licensing file before
13 it is made available for inspection or copying. The applicant or licensee has 10 business
14 days from the date the board sends the notice to request the opportunity to review the
15 redacted licensing file. If the applicant or licensee so requests, the board shall send a
16 copy of the redacted licensing file to the applicant or licensee for review. The board shall
17 make the redacted licensing file available to the requester for inspection and copying 10
18 business days after sending the redacted licensing file to the applicant or licensee for
19 review unless the board receives a petition from the applicant or licensee under
20 subsection 4.

21 **3. Reasonable costs.** Reasonable costs related to the review of a licensing file by
22 the applicant or licensee are considered part of the board's costs to make the redacted
23 licensing file available for inspection and copying under subsection 2 and may be charged
24 to the requester.

25 **4. Action based on personal safety.** An applicant or licensee may petition the
26 board to withhold the release of all or part of a licensing file under subsection 2 based on
27 the potential risk to the applicant's or licensee's personal safety or the personal safety of
28 any 3rd party if the file is disclosed to the public. The applicant or licensee must petition
29 the board to withhold all or part of the licensing file within 10 business days after the
30 board sends the applicant or licensee the redacted licensing file. The petition must
31 include an explanation of the potential safety risks and a list of items requested to be
32 withheld. Within 30 days of receiving the petition, the board shall notify the applicant or
33 licensee of its decision on the petition.

34 **Sec. 2. 32 MRSA §2600-D** is enacted to read:

35 **§2600-D. Inspection or copying of record; procedure**

36 **1. Request for licensing file; redaction.** When the board receives a request to
37 inspect or copy all or part of the licensing file of an applicant or licensee, the board shall
38 redact information that is not public before making the file available for inspection or
39 copying.

1 **2. Notice and opportunity to review.** When the board acknowledges a request to
2 inspect or copy an applicant's or a licensee's licensing file as required by Title 1, section
3 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the
4 applicant's or licensee's last address on file with the board explaining that the request has
5 been made and that the applicant or licensee may review the redacted licensing file before
6 it is made available for inspection or copying. The applicant or licensee has 10 business
7 days from the date the board sends the notice to request the opportunity to review the
8 redacted licensing file. If the applicant or licensee so requests, the board shall send a
9 copy of the redacted licensing file to the applicant or licensee for review. The board shall
10 make the redacted licensing file available to the requester for inspection and copying 10
11 business days after sending the redacted licensing file to the applicant or licensee for
12 review unless the board receives a petition from the applicant or licensee under
13 subsection 4.

14 **3. Reasonable costs.** Reasonable costs related to the review of a licensing file by
15 the applicant or licensee are considered part of the board's costs to make the redacted
16 licensing file available for inspection and copying under subsection 2 and may be charged
17 to the requester.

18 **4. Action based on personal safety.** An applicant or licensee may petition the
19 board to withhold the release of all or part of a licensing file under subsection 2 based on
20 the potential risk to the applicant's or licensee's personal safety or the personal safety of
21 any 3rd party if the file is disclosed to the public. The applicant or licensee must petition
22 the board to withhold all or part of the licensing file within 10 business days after the
23 board sends the applicant or licensee the redacted licensing file. The petition must
24 include an explanation of the potential safety risks and a list of items requested to be
25 withheld. Within 30 days of receiving the petition, the board shall notify the applicant or
26 licensee of its decision on the petition.

27 **Sec. 3. 32 MRSA §3300-G** is enacted to read:

28 **§3300-G. Inspection or copying of record; procedure**

29 **1. Request for licensing file; redaction.** When the board receives a request to
30 inspect or copy all or part of the licensing file of an applicant or licensee, the board shall
31 redact information that is not public before making the file available for inspection or
32 copying.

33 **2. Notice and opportunity to review.** When the board acknowledges a request to
34 inspect or copy an applicant's or a licensee's licensing file as required by Title 1, section
35 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the
36 applicant's or licensee's last address on file with the board explaining that the request has
37 been made and that the applicant or licensee may review the redacted licensing file before
38 it is made available for inspection or copying. The applicant or licensee has 10 business
39 days from the date the board sends the notice to request the opportunity to review the
40 redacted licensing file. If the applicant or licensee so requests, the board shall send a
41 copy of the redacted licensing file to the applicant or licensee for review. The board shall
42 make the redacted licensing file available to the requester for inspection and copying 10
43 business days after sending the redacted licensing file to the applicant or licensee for

1 review unless the board receives a petition from the applicant or licensee under
2 subsection 4.

3 **3. Reasonable costs.** Reasonable costs related to the review of a licensing file by
4 the applicant or licensee are considered part of the board's costs to make the redacted
5 licensing file available for inspection and copying under subsection 2 and may be charged
6 to the requester.

7 **4. Action based on personal safety.** An applicant or licensee may petition the
8 board to withhold the release of all or part of a licensing file under subsection 2 based on
9 the potential risk to the applicant's or licensee's personal safety or the personal safety of
10 any 3rd party if the file is disclosed to the public. The applicant or licensee must petition
11 the board to withhold all or part of the licensing file within 10 business days after the
12 board sends the applicant or licensee the redacted licensing file. The petition must
13 include an explanation of the potential safety risks and a list of items requested to be
14 withheld. Within 30 days of receiving the petition, the board shall notify the applicant or
15 licensee of its decision on the petition.

16 SUMMARY

17 This bill allows applicants and licensees of the State Board of Nursing, the Board of
18 Osteopathic Licensure and the Board of Licensure in Medicine to review their own
19 redacted licensing files before the respective board makes the file available for inspection
20 or copying after the licensing file has been requested.

21 The board must notify the applicant or licensee of the request to view the file at the
22 same time the board acknowledges the request under the Freedom of Access Act. The
23 board must use the most recent address on file for that applicant or licensee. If the
24 applicant or licensee would like to review the redacted file before it is made publicly
25 available, the applicant or licensee must notify the board within 10 business days. If
26 requested by the applicant or licensee, the board must send a copy of the redacted file to
27 the applicant or licensee, and the applicant or licensee has 10 business days from when
28 the file is sent to stop the release of all or a part of the redacted licensing file by
29 petitioning the board to withhold release of all or a part of the file because making all or
30 part of the redacted file available to the public creates a potential risk to the personal
31 safety of the applicant or licensee or any 3rd party.