

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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1981

to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his physical, mental or emotional conditions, including alcohol or drug addiction, among himself, his dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

3. Who may claim the privilege. The privilege may be claimed by the patient, by his guardian or conservator or by the personal representative of a deceased patient. The person who was the dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.

4. Exceptions. Notwithstanding any other provisions of law, the following are exceptions.

A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course thereof are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.

B. There is no privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of the patient in any proceeding in which the condition of the patient is an element of the claim or defense of the patient, or of any party claiming through or under the patient, or because of the patient's condition, or claiming as a beneficiary of the patient, through a contract to which the patient is or was a party, or after the patient's death, in any proceeding in which any party puts the condition in issue.

C. There is no privilege under this section as to information regarding any patient which is sought by the Chief Medical Examiner or his designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or his designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person.

Effective September 18, 1981

CHAPTER 212

H. P. 666 — L. D. 770

AN ACT to Clarify Application of the Workers' Compensation Law to Injuries Received by an Employee who Voluntarily Participates on an Employer-Sponsored Athletic Team.

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

Whereas, the injuries which may give rise to employer liability if this legislation were not enacted most frequently occur in the summer months; and

Whereas, the present law contains ambiguities which could encourage litigation and disharmony in labor-management relations; 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:

39 MRSA § 2, sub-§ 5, ¶ C is enacted to read:

C. The term "employee" does not include any person who is otherwise an employee, if he is injured as a result of his voluntary participation in an employer-sponsored athletic event or an employer-sponsored athletic team.

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

Effective April 30, 1981

CHAPTER 213

H. P. 740 — L. D. 878

AN ACT Concerning the Limitation on Damages for Loss of Comfort, Society and Companionship in Wrongful Death Actions.

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

18-A MRSA § 2-804, sub-§ (b), 2nd sentence, as enacted by PL 1979, c. 540, § 1, is amended to read:

The jury may give such damages as it shall deem a fair and just compensation with reference to the pecuniary injuries resulting from such death to the persons for whose benefit the action is brought, and in addition thereto shall give such damages as will compensate the estate of the deceased person for reasonable