

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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

J.S. McCarthy Company
Augusta, Maine
1999

ated to the University of Maine System, the Maine Technical College System and the Maine Maritime Academy and may not be used to reduce appropriations for other purposes.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

TREASURER OF STATE

Endowment Incentive Fund

All Other \$100,000

Provides funds on a one-time basis to establish a nonlapsing fund to match qualified private donations for academic purposes at the University of Maine System, the Maine Technical College System and the Maine Maritime Academy.

See title page for effective date.

CHAPTER 512

H.P. 1156 - L.D. 1653

An Act to Amend the Law Governing the Confidentiality of Health Care Information

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

PART A

Sec. A-1. 22 MRSA §1711, 4th ¶, as enacted by PL 1997, c. 793, Pt. A, §1 and affected by §10 and as affected by PL 1999, c. 3, §§3 and 5, is amended to read:

A patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem may submit to a hospital ~~an addition to the patient's medical records~~ health care information that corrects or clarifies the patient's treatment record, which must be retained with the medical record by the hospital. If the hospital adds to the medical record a statement in response to the submitted ~~addition~~ correction or clarification, the hospital shall provide a copy to the patient or, if the patient is a minor who has not consented to health care

treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem.

Sec. A-2. 22 MRSA §1711, last ¶, as enacted by PL 1997, c. 793, Pt. A, §1 and affected by §10 and as affected by PL 1999, c. 3, §§3 and 5, is amended to read:

Release of a patient's medical records to a person other than the patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem is governed by section 1711-C.

Sec. A-3. 22 MRSA §1711-B, sub-§3-A, as enacted by PL 1997, c. 793, Pt. A, §7 and affected by §10 and as affected by PL 1999, c. 3, §§3 and 5, is amended to read:

3-A. Corrections and clarifications of treatment records. A patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem may submit to a health care practitioner ~~an addition to the patient's treatment records~~ health care information that corrects or clarifies the patient's treatment record, which must be retained with the treatment record by the health care practitioner. If the health care practitioner adds to the treatment record a statement in response to the submitted ~~addition~~ correction or clarification, the health care practitioner shall provide a copy to the patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem.

Sec. A-4. 22 MRSA §1711-B, sub-§5, as amended by PL 1997, c. 793, Pt. B, §5 and affected by §6 and as affected by PL 1999, c. 3, §§4 and 5, is further amended to read:

5. HIV test. Release of information regarding the HIV infection status of a patient is governed by Title 5, section ~~4741-C~~ 19203-D.

Sec. A-5. 22 MRSA §1711-C, as amended by PL 1999, c. 3, §§1 and 2 and affected by §§3 and 5, is further amended to read:

§1711-C. Confidentiality of health care information

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized representative of an individual" or "authorized representative" means an individual's legal guardian; agent pursuant to Title 18-A, section 5-802; attorney-in-fact pursuant to

Title 18-A, section 5-506; or other authorized representative or, after death, that person's personal representative or a person identified in subsection 3-B. For a minor who has not consented to health care treatment in accordance with the provisions of state law, "authorized representative" means the minor's parent, legal guardian or guardian ad litem.

A-1. "Authorization to disclose" means authorization to disclose health care information in accordance with subsection 3, 3-A or 3-B.

B. "Disclosure" means the release, transfer or provision of access to health care information in any manner obtained as a result of a professional health care relationship between the individual and the health care practitioner or facility to a person or entity other than the individual.

C. "Health care" means preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, treatment, procedures or counseling, including appropriate assistance with disease or symptom management and maintenance, that affects an individual's physical, mental or behavioral condition, including individual cells or their components or genetic information, or the structure or function of the human body or any part of the human body. Health care includes prescribing, dispensing or furnishing to an individual drugs, biologicals, medical devices or health care equipment and supplies; providing hospice services to an individual; and the banking of blood, sperm, organs or any other tissue.

D. "Health care facility" or "facility" means a facility, institution or entity licensed pursuant to this Title that offers health care to persons in this State, including a home health care provider, hospice program and a pharmacy licensed pursuant to Title 32. For the purposes of this section, "health care facility" does not include a state mental health institute, the Elizabeth Levinson Center, the Aroostook Residential Center or Freeport Towne Square.

E. "Health care information" means information that directly identifies the individual and that relates to an individual's physical, mental or behavioral condition, personal or family medical history or medical treatment or the health care provided to that individual. "Health care information" does not include information that protects the anonymity of the individual by means of encryption or encoding of individual identifiers or information pertaining to or derived from federally sponsored, authorized or regulated research governed by 21 Code of Federal Regulations, Parts 50 and 56 and 45 Code of Federal

Regulations, Part 46, to the extent that such information is used in a manner that protects the identification of individuals. The Board of Directors of the Maine Health Data Organization shall adopt rules to define health care information that directly identifies an individual. Rules adopted pursuant to this paragraph are ~~major substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

"Health care information" does not include information that is created or received by a member of the clergy or other person using spiritual means alone for healing as provided in Title 32, sections 2103 and 3270.

F. "Health care practitioner" means a person licensed by this State to provide or otherwise lawfully ~~provide~~ providing health care or a partnership or corporation made up of those persons or an officer, employee, agent or contractor of that person acting in the course and scope of employment, agency or contract related to or supportive of the provision of health care to ~~an individual~~ individuals.

G. "Individual" means a natural person who is the subject of the health care information under consideration and, in the context of disclosure of health care information, includes the individual's authorized representative.

H. "Third party" or "3rd party" means a person other than the individual to whom the health care information relates.

2. Confidentiality of health information; disclosure. An individual's health care information is confidential and may not be disclosed other than to the individual by the health care practitioner or facility except as provided in subsection 3, 3-A, 3-B, 6 or 11. Nothing in this section prohibits a health care practitioner or health care facility from adhering to applicable ethical or professional standards provided that these standards do not decrease the protection of confidentiality granted by this section. ~~Health care information disclosed pursuant to subsection 3, 6 or 11 retains its confidential nature after such disclosure and may be subsequently disclosed only if the written authorization to disclose allows future disclosures or if the disclosure is made pursuant to a separate written authorization to disclose or under circumstances stated in subsection 6 or 11.~~

3. Written authorization to disclose. A health care practitioner or facility may disclose health care information pursuant to a written authorization signed by an individual for the specific purpose stated in the authorization. ~~At~~ A written authorization to disclose health care information must be retained with the individual's health care information. ~~At~~ A written

authorization to disclose is valid ~~if it is in writing~~, whether ~~as it is in~~ an original, facsimile or electronic form. ~~A~~ A written authorization to disclose must contain the following elements:

- A. The name and signature of the individual and the date of signature. If the authorization is in electronic form, a unique identifier of the individual and the date the individual authenticated the electronic authorization must be stated in place of the individual's signature and date of signature;
- B. The types of persons authorized to disclose health care information and the nature of the health care information to be disclosed;
- C. The identity or description of the 3rd party to whom the information is to be disclosed;
- D. The specific purpose or purposes of the disclosure and whether any subsequent disclosures may be made pursuant to the same authorization. An authorization to disclose health care information related to substance abuse treatment or care subject to the requirements of 42 United States Code, Section ~~290ee-3~~ 290dd-2 (Supplement ~~1997~~ 1998) is governed by the provisions of that law;
- E. The duration of the authorization;
- F. A statement that the individual may refuse authorization to disclose all or some health care information but that refusal may result in improper diagnosis or treatment, denial of coverage or a claim for health benefits or other insurance or other adverse consequences;
- G. A statement that the authorization may be revoked at any time by the individual by executing a written revocation, subject to the right of any person who acted in reliance on the authorization prior to receiving notice of revocation, instructions on how to revoke an authorization and a statement that revocation may be the basis for denial of health benefits or other insurance coverage or benefits; and
- H. A statement that the individual is entitled to a copy of the authorization form.

3-A. Oral authorization to disclose. When it is not practical to obtain written authorization under subsection 3 from an individual or person acting pursuant to subsection 3-B or when a person chooses to give oral authorization to disclose, a health care practitioner or facility may disclose health care information pursuant to oral authorization. A health care practitioner or facility shall record with the individual's health care information receipt of oral

authorization to disclose, including the name of the authorizing person, the date, the information and purposes for which disclosure is authorized and the identity or description of the 3rd party to whom the information is to be disclosed.

3-B. Authorization to disclose provided by a 3rd party. When an individual or an authorized representative is unable to provide authorization to disclose under subsection 3 or 3-A, a health care practitioner or facility may disclose health care information pursuant to authorization to disclose that meets the requirements of subsection 3 or 3-A given by a 3rd party listed in this subsection. A health care practitioner or facility may determine not to obtain authorization from a person listed in this subsection when the practitioner or facility determines it would not be in the best interest of the individual to do so. In making this decision, the health care practitioner or facility shall respect the safety of the individual and shall consider any indicators, suspicion or substantiation of abuse. Persons who may authorize disclosure under this subsection include:

- A. The spouse of the individual;
- B. A parent of the individual;
- C. An adult who is a child, grandchild or sibling of the individual;
- D. An adult who is an aunt, uncle, niece or nephew of the individual, related by blood or adoption;
- E. An adult related to the individual, by blood or adoption, who is familiar with the individual's personal values; and
- F. An adult who has exhibited special concern for the individual and who is familiar with the individual's personal values.

4. Duration of authorization to disclose. A ~~written~~ An authorization to disclose may not extend longer than 30 months, except that the duration of an authorization for the purposes of insurance coverage under Title 24, 24-A or 39-A is governed by the provisions of Title 24, 24-A or 39-A, respectively.

5. Revocation of authorization to disclose. An individual A person who may authorize disclosure may revoke a ~~written~~ authorization to disclose at any time, subject to the rights of any person who acted in reliance on the authorization prior to receiving notice of revocation. A ~~written~~ revocation of authorization ~~must be in writing and~~ must be signed and dated ~~by the individual~~. If the revocation is in electronic form, a unique identifier of the individual and the date the individual authenticated the electronic authorization must be stated in place of the individual's signature

and date of signature. A health care practitioner or facility shall record receipt of oral revocation of authorization, including the name of the person revoking authorization and the date. A revocation of authorization must be retained with the individual's authorization and the individual's health care information.

6. Disclosure without authorization to disclose. A health care practitioner or facility may disclose, or when required by law must disclose, health care information without ~~written~~ authorization to disclose under the circumstances stated in this subsection or as provided in subsection 11. ~~The circumstances in which disclosure~~ Disclosure may be made without ~~written~~ authorization ~~to disclose~~ include the following as follows:

A. To another health care practitioner or facility for diagnosis, treatment or care of ~~the individual as follows: individuals or to complete the responsibilities of a health care practitioner or facility that provided diagnosis, treatment or care of individuals, as provided in this paragraph.~~

~~(1) In emergency circumstances; or~~

(1) For a disclosure within the office, practice or organizational affiliate of the health care practitioner or facility, no authorization is required.

~~(2) In nonemergency circumstances:~~

~~(a) For a disclosure within the office, practice or organization of the health care practitioner or facility, when the disclosure is made for a purpose related to the provision of health care to the individual; or~~

~~(b) For a disclosure outside of the office, practice or organization of the health care practitioner or facility, when authorization is given orally by the individual or may be inferred from the individual's conduct. Health care information related to an HIV test, HIV infection or HIV infection status, as defined in Title 5, section 19201, subsections 3, 4 A and 5, may not be disclosed in reliance on an authorization inferred from an individual's conduct. Health care information derived from mental health services provided by any of the following individuals may not be disclosed by any such individual in reliance on an authorization implied from an individual's conduct:~~

~~(i) A clinical nurse specialist licensed under the provisions of Title 32, chapter 31;~~

~~(ii) A psychologist licensed under the provisions of Title 32, chapter 56;~~

~~(iii) A social worker licensed under the provisions of Title 32, chapter 83;~~

~~(iv) A counseling professional licensed under the provisions of Title 32, chapter 119; and~~

~~(v) A physician specializing in psychiatry licensed under the provisions of Title 32, chapter 36 or 48.~~

~~A physician specializing in psychiatry may disclose any such information to a licensed pharmacist but solely for purposes related to prescribing, dispensing or furnishing medication to a patient;~~

(2) For a disclosure outside of the office, practice or organizational affiliate of the health care practitioner or facility, authorization is not required, except that in non-emergency circumstances authorization is required for health care information derived from mental health services provided by:

(a) A clinical nurse specialist licensed under the provisions of Title 32, chapter 31;

(b) A psychologist licensed under the provisions of Title 32, chapter 56;

(c) A social worker licensed under the provisions of Title 32, chapter 83;

(d) A counseling professional licensed under the provisions of Title 32, chapter 119; or

(e) A physician specializing in psychiatry licensed under the provisions of Title 32, chapter 36 or 48.

This subparagraph does not prohibit the disclosure of health care information between a licensed pharmacist and a health care practitioner or facility providing mental health services for the purpose of dispensing medication to an individual;

B. To an agent, employee, independent contractor or a successor in interest of the health care practitioner or facility or to a member of a quality assurance, utilization review or peer review team to the extent necessary to carry out the usual and customary activities relating to the delivery of health care and for the practitioner's or facility's lawful purposes in diagnosing, treating or caring for the individual individuals, including billing and collection, risk management, quality assurance, utilization review and peer review. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales;

C. To a family or household member ~~when an individual is receiving diagnosis, treatment or care in an emergency care facility or health care facility. A disclosure made pursuant to this paragraph may include only the presence and general health condition of the individual unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B;~~

D. ~~When~~ To appropriate persons when a health care practitioner or facility that is providing or has provided diagnosis, treatment or care to the individual has determined, based on reasonable professional judgment, that the individual poses a direct threat of imminent harm to the health or safety of any individual. A disclosure pursuant to this paragraph must protect the confidentiality of the health care information consistent with sound professional judgment;

E. To federal, state or local governmental entities in order to protect the public health and welfare when reporting is required or authorized by law or to report a suspected crime against the health care practitioner or facility;

~~F. To federal, state or local governmental entities pursuant to statute, subpoena or court order for use in an investigation relating to the individual; a health care practitioner or facility; a health, life, disability insurance or health care benefits entity required to be licensed pursuant to Title 24 or 24-A; a 3rd party; or pursuant to a subpoena or court order in a civil proceeding filed in a court. The requesting governmental entity must specify the nature and type of health care information to be disclosed. For the purposes of this section, "governmental entity" includes a licensing board for a health care practitioner;~~

F-1. As directed by order of a court or as authorized or required by statute;

F-2. To a governmental entity pursuant to a lawful subpoena requesting health care information

to which the governmental entity is entitled according to statute or rules of court;

G. ~~When~~ To a person when necessary to conduct scientific research approved by an institutional review board or by the board of a nonprofit health research organization or when necessary for a clinical trial sponsored, authorized or regulated by the federal Food and Drug Administration. A person conducting research or a clinical trial may not identify any individual patient in any report arising from the research or clinical trial. For the purposes of this paragraph, "institutional review board" means any board, committee or other group formally designated by a health care facility and authorized under federal law to review, approve or conduct periodic review of research programs. Health care information disclosed pursuant to this paragraph that identifies an individual must be returned to the health care practitioner or facility from which it was obtained or must be destroyed when it is no longer required for the research or clinical trial. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales;

H. To a person engaged in the assessment, evaluation or investigation of the provision of or payment for health care or the practices of a health care practitioner or facility or to an agent, employee or contractor of such a person, pursuant to statutory or professional standards or requirements. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales;

I. To a person engaged in the regulation, accreditation, licensure or certification of a health care practitioner or facility or to an agent, employee or contractor of such a person, pursuant to standards or requirements for regulation, accreditation, licensure or certification;

J. To a person engaged in the review of the provision of health care by a health care practitioner or facility or payment for such health care under Title 24, 24-A or 39-A or under a public program for the payment of health care or professional liability insurance for a health care practitioner or facility or to an agent, employee or contractor of such a person; or

K. To attorneys for a the health care practitioner or facility that is disclosing the health care information or to a person as required in the context of legal proceedings or in disclosure to a court or governmental entity, as determined by the practitioner or facility to be required for ~~ade-~~

~~quate.~~ the practitioner's or facility's own legal representation;

L. To a person outside the office of the health care practitioner or facility engaged in payment activities, including but not limited to submission to payors for the purposes of billing, payment, claims management, medical data processing, determination of coverage or adjudication of health benefit or subrogation claims, review of health care services with respect to coverage or justification of charges or other administrative services. Payment activities also include but are not limited to:

(1) Activities necessary to determine responsibility for coverage;

(2) Activities undertaken to obtain payment for health care provided to an individual; and

(3) Quality assessment and utilization review activities, including precertification and preauthorization of services and operations or services audits relating to diagnosis, treatment or care rendered to individuals by the health care practitioner or facility and covered by a health plan or other payor;

M. To schools, educational institutions, camps, correctional facilities, health care practitioners and facilities, providers of emergency services or a branch of federal or state military forces, information regarding immunization of an individual;

N. To a person when disclosure is needed to set or confirm the date and time of an appointment or test or to make arrangements for the individual to receive those services;

O. To a person when disclosure is needed to obtain or convey information about prescription medication or supplies or to provide medication or supplies under a prescription;

P. To a person representing emergency services, health care and relief agencies, corrections facilities or a branch of federal or state military forces, of brief confirmation of general health status;

Q. To a member of the clergy, of information about the presence of an individual in a health care facility, including the person's room number, place of residence and religious affiliation unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B;

R. To a member of the media who asks a health care facility about an individual by name, of brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; and

S. To a member of the public who asks a health care facility about an individual by name, of the room number of the individual and brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B.

7. Confidentiality policies. A health care practitioner or facility shall develop and implement policies, standards and procedures to protect the confidentiality, security and integrity of health care information to ensure that information is not negligently, inappropriately or unlawfully disclosed. ~~The policies, standards and procedures must state that information disclosed remains confidential and that the person to whom the information is disclosed must protect the confidentiality of the information. The~~ policies of health care facilities must provide that an individual being admitted for inpatient care be given notice of the right of the individual to control the disclosure of health care information. ~~The policies must provide that routine admission forms include clear written notice of the individual's ability to direct that that individual's name be removed from the directory listing of persons cared for at the facility and notice that removal may result in the inability of the facility to direct visitors and telephone calls to the individual.~~

8. Prohibited disclosure. A health care practitioner or facility may not disclose health care information for the purpose of marketing or sales without written or oral authorization for the disclosure.

9. Disclosures of corrections or clarifications to health care information. A health care practitioner or facility shall provide to a 3rd party a copy of an addition submitted by an individual to the individual's health care information if:

A. The health care practitioner or facility provided a copy of the original health care record to the 3rd party on or after ~~October 1, 1999~~ February 1, 2000;

B. The ~~addition~~ correction or clarification was submitted by the individual pursuant to section 1711 or 1711-B and relates to diagnosis, treatment or care;

C. The individual requests that a copy be sent to the 3rd party and provides an authorization that meets the requirements of subsection 3, ~~3-A~~ or 3-B; and

D. If requested by the health care practitioner or facility, the individual pays to the health care practitioner or facility all reasonable costs requested by that practitioner or facility.

10. Requirements for disclosures. Except as otherwise provided by law, disclosures of health care information pursuant to this section are subject to the professional judgment of the health care practitioner and to the following requirements.

A. A health care practitioner or facility that discloses health care information pursuant to subsection 3, 3-A or 3-B may not disclose information in excess of the information requested in the authorization.

B. A health care practitioner or facility that discloses health care information pursuant to subsections 3 and, 3-A, 3-B or 6 may not disclose information in excess of the information reasonably required for the purpose for which it is disclosed.

C. If a health care practitioner or facility believes that release of health care information to the individual would be detrimental to the health of the individual, the health care practitioner or facility shall advise the individual and make copies of the records available to the individual's authorized representative upon receipt of a written authorization.

D. If a health care practitioner or facility discloses partial or incomplete health care information, as compared to the request or directive to disclose under subsection 3, 3-A, 3-B or 6, the disclosure must expressly indicate that the information disclosed is partial or incomplete.

11. Health care information subject to other laws, rules and regulations. ~~An authorization to disclose or a disclosure of health~~ Health care information that is subject to the provisions of 42 United States Code, Section ~~290ee-3~~ 290dd-2 (Supplement ~~1997~~ 1998); chapters 710 and 711; Title 5, section 200-E; Title 5, chapter 501; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other provisions of state or federal law, rule or regulation is governed solely by those provisions.

12. Minors. If a minor has consented to health care in accordance with the laws of this State, authorization to disclose health care information pursuant to this section must be given by the minor unless otherwise provided by law.

13. Enforcement. This section may be enforced within 2 years of the date a disclosure in violation of this section was or should reasonably have been discovered.

A. When the Attorney General has reason to believe that a person has intentionally violated a provision of this section, the Attorney General may bring an action to enjoin unlawful disclosure of health care information.

B. An individual who is aggrieved by conduct in violation of this section may bring a civil action against a person who has intentionally unlawfully disclosed health care information in the Superior Court in the county in which the individual resides or the disclosure occurred. The action may seek to enjoin unlawful disclosure and may seek costs and a forfeiture or penalty under paragraph C. An applicant for injunctive relief under this paragraph may not be required to give security as a condition of the issuance of the injunction.

~~C. A person who violates this section commits a civil violation for which a forfeiture not to exceed \$1,000, payable to the State, may be adjudged for a negligent violation, plus costs. A person who intentionally violates this section is subject to a civil penalty not to exceed \$5,000, payable to the State, for an intentional violation, plus costs. If a court finds that intentional violations of this section have occurred after due notice of the violating conduct with sufficient frequency to constitute a general business practice, the person is subject to a civil penalty not to exceed \$10,000 for health care practitioners and \$50,000 for health care facilities, payable to the State. A civil penalty under this subsection is recoverable in a civil action.~~

D. Nothing in this section may be construed to prohibit a person aggrieved by conduct in violation of this section from pursuing all available common law remedies, including but not limited to an action based on negligence.

14. Waiver prohibited. Any agreement to waive the provisions of this section is against public policy and void.

15. Immunity. A cause of action in the nature of defamation, invasion of privacy or negligence does not arise against any person for disclosing health care information in accordance with this section. This section provides no immunity for disclosing ~~false~~ information with malice or willful intent to injure any person.

16. Application. This section applies to all requests ~~and~~ directives ~~to disclose health care information issued or received on or after October 1, 1999 and to all~~ authorizations to disclose health care information executed on or after ~~October 1, 1999~~ February 1, 2000. An authorization to disclose health care information executed prior to February 1, 2000 that

does not meet the standards of this section is deemed to comply with the requirements of this section until the next health care encounter between the individual and the health care practitioner or facility.

17. Repeal. This section is repealed March 1, 2002.

Sec. A-6. PL 1997, c. 793, Pt. A, §10, as amended by PL 1999, c. 3, §3 and affected by §5, is further amended to read:

Sec. A-10. Effective date. This Part takes effect ~~October 1, 1999~~ February 1, 2000 with the exception of section 9 of this Part, which takes effect August 1, 1998.

PART B

Sec. B-1. 5 MRSA §19203, sub-§2, as amended by PL 1997, c. 793, Pt. B, §1 and affected by §6 and as affected by PL 1999, c. 3, §§4 and 5, is further amended to read:

2. Designated health care provider. To a health care provider designated by the subject of the test in writing ~~pursuant to Title 22, section 1711-C.~~ When a patient has authorized disclosure of HIV test results to a person or organization providing health care, the patient's health care provider may make these results available only to other health care providers working directly with the patient and only for the purpose of providing direct medical or dental patient care. Any health care provider who discloses HIV test results in good faith pursuant to this subsection is immune from any criminal or civil liability for the act of disclosing HIV test results to other health care providers;

Sec. B-2. 5 MRSA §19203, sub-§9, as amended by PL 1997, c. 793, Pt. B, §2 and affected by §6 and as affected by PL 1999, c. 3, §§4 and 5, is further amended to read:

9. Medical records. As part of a medical record when release or disclosure of that record is authorized pursuant to ~~Title 22, section 1711, 1711-B, subsection 1 or section 1711-C, subsection 3, 6 or 11 section 19203-D;~~ or

Sec. B-3. 5 MRSA §19203, last ¶, as amended by PL 1997, c. 793, Pt. B, §3 and affected by §6 and as affected by PL 1999, c. 3, §§4 and 5, is further amended to read:

Nothing in this section may be construed as prohibiting the entry of an HIV test result on the patient's medical record in accordance with this chapter.

Sec. B-4. 5 MRSA §19203-D, as repealed by PL 1997, c. 793, Pt. B, §4 and affected by §6 and as affected by PL 1999, c. 3, §§4 and 5, is reenacted to read:

§19203-D. Records

When a medical record entry is made concerning information of a person's HIV infection status, including the results of an HIV test, the following apply to the release of that information as a part of the medical record.

1. Authorized release. The person who is the subject of an HIV test, at or near the time the entry is made in the medical record, shall elect, in writing, whether to authorize the release of that portion of the medical record containing the HIV infection status information when that person's medical record has been requested. A new election may be made when a change in the person's HIV infection status occurs or whenever the person makes a new election. The release form must clearly state whether or not the person has authorized the release of that information. The person must be advised of the potential implications of authorizing the release of that information.

A. When release has been authorized, the custodian of the medical record may release, upon request, the person's medical record, including any HIV infection status information contained in the medical record. Release of HIV infection status information pursuant to this paragraph is not a violation of any of the confidentiality provisions of this chapter.

B. When release has not been authorized, the custodian of the medical record may, upon request, release that portion of the medical record that does not contain the HIV infection status information. Except as otherwise provided in this section, HIV infection status information may be released only if the person has specifically authorized a separate release of that information. A general release form is insufficient.

2. Authorized disclosure. A medical record containing results of an HIV test may not be disclosed, discoverable or compelled to be produced in any civil, criminal, administrative or other proceedings without the consent of the person who is the subject of an HIV test, except in the following cases:

A. Proceedings held pursuant to the communicable disease laws, Title 22, chapter 251;

B. Proceedings held pursuant to the Adult Protective Services Act, Title 22, chapter 958-A;

C. Proceedings held pursuant to the child protection laws, Title 22, chapter 1071;

D. Proceedings held pursuant to the mental health laws, Title 34-B, chapter 3, subchapter IV, article III; and

E. Pursuant to a court order upon a showing of good cause, provided that the court order limits the use and disclosure of records and provides sanctions for misuse of records or sets forth other methods for ensuring confidentiality.

3. Utilization review; research. Nothing in this section may be interpreted to prohibit reviews of medical records for utilization review purposes by duly authorized utilization review committees or peer review organizations. Qualified personnel conducting scientific research, management audits, financial audits or program evaluation with the use of medical records may not identify, directly or indirectly, any individual patient in any report of such research, audit, evaluation or otherwise disclose the identities of persons tested in any manner.

4. Access by health care providers. Nothing in this section may prohibit access to medical records by the designated health care provider of the person who is the subject of an HIV test in accordance with section 19203, subsection 2.

5. Confidentiality policy. Health care providers and others with access to medical records containing HIV infection status information shall have a written policy providing for confidentiality of all patient information consistent with this chapter. That policy must require, at a minimum, action consistent with disciplinary procedures for violations of the confidentiality policy.

Sec. B-5. PL 1997, c. 793, Pt. B, §6, as amended by PL 1999, c. 3, §4 and affected by §5, is further amended to read:

Sec. B-6. Effective date. This Part takes effect ~~October 1, 1999~~ February 1, 2000.

See title page for effective date.

CHAPTER 513

H.P. 1034 - L.D. 1456

An Act to Establish the Northern Maine Transmission Corporation

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

Sec. 1. 10 MRSA §963-A, sub-§10, ¶P, as amended by PL 1997, c. 500, §3, is further amended to read:

P. Any workers' compensation residual market mechanism project; ~~and~~

Sec. 2. 10 MRSA §963-A, sub-§10, ¶Q, as enacted by PL 1997, c. 500, §4, is further amended to read:

Q. Any clean fuel vehicle project; ~~and~~

Sec. 3. 10 MRSA §963-A, sub-§10, ¶R is enacted to read:

R. Any transmission facilities project.

Sec. 4. 10 MRSA §963-A, sub-§49-G is enacted to read:

49-G. Transmission facilities project. "Transmission facilities project" means a project to carry out the purposes of chapter 1003.

Sec. 5. 10 MRSA §1053, sub-§6, as repealed and replaced by PL 1997, c. 781, §1, is amended to read:

6. Securities outstanding. The principal amount of revenue obligation securities the authority may have outstanding at any one time, to which subsection 5 is stated to apply in the trust agreement or other document, may not exceed an aggregate principal amount equal to ~~\$657,000,000~~ \$692,000,000 as follows:

A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects;

B. The sum of \$120,000,000 consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for major business expansion projects;

C. The sum of \$57,000,000 consisting of not more than \$45,000,000 for loans and up to \$12,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to workers' compensation residual market mechanism projects; ~~and~~

D. The sum of \$150,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032 for all other revenue obligation securities issued pursuant to this subchapter; ~~and~~