

# MAINE STATE LEGISLATURE

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24 M.R.S.A. c. 21

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

April 21, 1978

Alan M. Elkins, M.D.  
Chairman  
Board of Registration in Medicine  
22 Bramhill Street  
Portland, ME 04101

Dear Alan:

In your March 21, 1978, letter you ask whether the Maine Health Security Act (24 M.R.S.A. c. 21, as enacted by P.L. 1977, c. 492) permits a physician against whom a complaint has been made pursuant to the Act access to the complaint, including the name of the complainant.

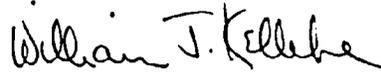
As you are aware, subchapter I of this Act requires health care providers, professional societies and physicians report to the board reasonable knowledge of acts of any physician which amount to gross or repeated medical malpractice, habitual drunkenness, addiction to the use of drugs or professional incompetence. Any other person is permitted to make such a report, under the Act. Section 2509, requires the board create and maintain a permanent record of the name of each licensed physician together with an individual historical record for each physician relating to reports or other information furnished to the board. Section 2509(4), provides that a "physician shall be provided with a written notice of the substance of any information received pursuant to (the Maine Health Security Act) and placed in his individual historical record." Section 2509(5), permits the physician or his authorized representative to examine "the individual historical record which the board maintains pursuant to this chapter, and to place into the record a statement of reasonable length of the physician's view of the correctness or relevance of any information existing in the record."

While the Act does not define what constitutes a historical record it is possible to discern its mandatory content from examination of the provisions of §2509. Section 2509(1), indicates it shall relate to reports (of negligence, habitual drunkenness, addiction to the use of drugs, professional incompetence, breaches of professional ethics or abuse of drugs or alcohol by a physician) filed with the board pursuant

to the Act or other information furnished the board under the Act. Sub-section 2, indicates the record will include the actual reports, viz, "Upon determination . . . that any report . . . is without merit, the report shall be removed from the physician's individual historical record and destroyed." Subsection 7, indicates the record shall also include biographical background, education, professional training and practice and prior disciplinary action by any entity. Consistent with the purpose of the historical record to "facilitate proper periodic review of the physician's professional competence", the board is given the authority to promulgate rules for those other items it wishes included in a historical record.

I trust this is responsive to your inquiry. I will be pleased to discuss this with you and the other members of the board at your convenience.

Very truly yours,



WILLIAM J. KELLEHER  
Assistant Attorney General

WJK/glm