

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
106TH LEGISLATURE

HOUSE AMENDMENT "A" to H. P. 1527, L. D. 1957, Bill, "AN ACT
Relating to Medical Treatment of Persons at State Operated Facilities."

Amend said Bill by inserting before the enacting clause
the following:

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

Whereas, there exists a 24-hour per day need for the administration
of medications to patients at state institutions and health facilities
throughout the State; and

Whereas, an opinion of the office of the Attorney General
dated May 15, 1973, advised the Department of Mental Health
and Corrections that personnel not licensed as registered nurses
or licensed practical nurses could not legally administer
medications; and

Whereas, the term "administer" medications has evidently been
construed by the office of the Attorney General to include the
acts of furnishing, delivering, supplying, or giving medication; and

Whereas, many selected activities concerning the "administration"
of medications are being carried out by competent and qualified
individuals not licensed pursuant to Title 32, chapter 31; and

Whereas, the office of the Attorney General has advised the
Department of Mental Health and Corrections that unlicensed persons

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performing such activities are subjecting themselves to possible civil and criminal liability; and

Whereas, this opinion has caused great mental anguish on the part of unlicensed individuals performing such activities as part of their assigned duties and has resulted in their refusal to perform such activities for fear of criminal prosecution; and

Whereas, such refusal on the part of unlicensed persons to perform such activities has detrimentally affected the quality of health care facilities throughout this State; and

Whereas, the medical and nursing professions are undertaking a comprehensive study of this situation to determine whether remedial legislation is necessary; 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, '

Further amend said Bill by striking out everything after the enacting clause and inserting in place thereof the following:

'R. S., T. 32, §2258-A, additional. Title 32 of the Revised Statutes is amended by adding a new section 2258-A to read as follows:

§2258-A. Administration of medication

Any employee of any institution under the control of the Department of Mental Health and Corrections or of an institution licensed by the State as a hospital, nursing home, extended care facility or boarding home who, in the exercise of due care, is

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authorized by the head of such institution or his designee to perform selected activities in the administration of medications and any person who, in the exercise of due care, is delegated such functions by a licensed allopathic or osteopathic physician shall be immune from criminal prosecution and civil liability for any such administration of medication prior to the effective date of this Act and until July 1, 1974, but not thereafter.

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

Statement of Fact

The purpose of this amendment is reflected in the emergency preamble.

Filed by Mr. Simpson of Sta ndish.

Reproduced and distributed under the direction of the Clerk of the House.

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