

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 1825**

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S. P. 494

In Senate, April 16, 1975

Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Rule No. 10. Referred to Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Conley of Cumberland.

Cosponsor: Senator Gahagan of Aroostook.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**AN ACT to Create a Commission to Revise the Laws Relating to Medical and Hospital Malpractice Insurance.**

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

**Sec. 1. Commission, duties.** A special commission shall be constituted and appointed to supervise the preparation, in final legislative draft form, of a proposal to insure the availability of medical and hospital malpractice insurance to physicians and hospitals throughout the State and to develop a more equitable system of relief for malpractice claims. Such proposal may, without limitation, incorporate such necessary repealers, amendments and modifications of existing laws as, in the judgment of such commission, are necessary and appropriate to accomplish such purposes. Such proposal may include such new or modified provisions as, in the judgment of the commission, will best serve the interests of the people of the State, and the commission shall give due consideration to the insurance laws of the other states; proposals before the Legislatures of other states and proposals before the Congress of the United States. Such proposal shall be submitted to the regular session of the 108th Maine Legislature or at such earlier time as the commission deems appropriate. Such commission shall employ a chief counsel, and, subject to said counsel's recommendation, such additional counsel as may be required, to perform the necessary research and drafting of such proposal, the chief counsel to meet the requirements as set forth. Such commission shall hold public hearings as may be necessary to gather factual data from interested persons and to acquaint persons interested with its proposals and

recommendations, and the commission shall have full access to all of the records of the Maine Bureau of Insurance for the purpose of its investigation.

**Sec. 2. Membership.** The membership of the commission shall be constituted and appointed as follows: One member shall be a Member of the House of Representatives in the 107th Maine Legislature to be appointed by the Speaker of the House; one member shall be a Member of the Senate in the 107th Maine Legislature to be appointed by the President of the Senate; one member shall be a representative of the Maine Hospital Association and shall be appointed by the Governor, upon recommendation of the Maine Hospital Association; one member shall be a representative of the Maine Medical Association and shall be appointed by the Governor, upon recommendation of the Maine Medical Association; one member shall be a representative of the Maine Bar Association and shall be appointed by the Governor, upon recommendation of the Maine Bar Association; one member shall be a sitting or retired Justice of the Supreme Judicial Court of Maine and said justice shall serve as chairman of the commission upon his appointment by the Chief Justice of the Supreme Judicial Court; and 4 additional members shall be appointed by the Governor. The Insurance Superintendent shall serve on the commission as a voting member. Each member shall serve until the commission shall have completed its work, or until his prior death or resignation. In the event of the death or resignation of any member, his place shall be filled, upon written notice thereof from the commission, by the then President of the Senate, Speaker of the House, Governor or Chief Justice, as the case may be, in the same manner as with respect to the original appointment.

**Sec. 3. Meetings.** The said commission shall be appointed promptly upon enactment hereof, and the Governor shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a vice-chairman and secretary-treasurer, adopt rules as to the administration of the commission and its affairs, which rules shall require a minimum of 30 days' notice of any public hearing to consider one or more aspects of the laws or prospective laws to be considered by the commission and which rules shall require that all proposals shall be transmitted to each person in the State who shall have recorded his desire to receive and willingness to pay for the costs of printing and mailing same, and thereafter shall meet as often as necessary until its work is completed. In all matters as to which there is disagreement, a majority vote shall prevail, and a quorum shall consist of a least 5 members. The commission shall maintain minutes of its meetings and such financial records as may be required by the State Auditor.

**Sec. 4. Chief counsel.** The commission shall contract a chief counsel who shall have the responsibility for legal research and drafting required in connection with the preparation of the proposed legislative proposal under the direction and supervision of the commission. No person shall be employed as chief counsel who shall not, by virtue of prior training, experience, ability and reputation, have clearly demonstrated the ability to perform the tasks to be assigned to him by the commission.

**Sec. 5. Appropriation.** There is appropriated from the General Fund the sum of \$25,000 for the fiscal year ending June 30, 1976 to carry out the pur-

poses of this Act. Any unexpended balance shall not lapse but shall remain a continuing carrying account until June 30, 1978.

#### STATEMENT OF FACT

There is a substantial problem in the State concerning the ability of physicians and hospitals to secure and maintain malpractice liability insurance. Excessive awards being paid under insurance contracts in areas outside the State of Maine and is having an effect on the cost and availability of malpractice coverage in Maine. While it is necessary to insure that citizens of Maine who are subjected to malpractice are compensated for their injuries, it must be recognized that the cost of such malpractice coverage is borne by the patients of Maine physicians and hospitals. This Act proposes the establishment of a special commission to investigate the situation in Maine and to make recommendations and proposals relating to insuring the availability of malpractice coverage and to develop a more equitable system of relief for malpractice claims.