

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
108TH LEGISLATURE  
FIRST REGULAR SESSION

(Filing No. H-804)

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 205, L.D. 727, Bill, "AN ACT to Implement the Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance."

Amend the amendment by striking out everything after the title and inserting in its place the following:

'Amend the bill by striking out all of the title and inserting in its place the following: 'AN ACT to Implement Certain Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance.'

Further amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'24 MRSA c. 21 is enacted to read:

CHAPTER 21

LIABILITY CLAIMS REPORTS

§2601. Definitions

1. Board. "Board" means the Board of Registration in Medicine or the Board of Osteopathic Examination and Registration.

2. Health care provider. "Health care provider" means any hospital, clinic, nursing home or other facility in which skilled nursing care or medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in this State and which is licensed or otherwise authorized by the laws of this State.

§2602. Report of claim

Every insurer providing professional liability insurance in this state to a person licensed by the Board of Registration in Medicine or the Board of Osteopathic Examination and Registration or to any health care provider shall make a periodic report of claims made under the insurance. For purposes of this section a claim is made whenever the insurer receives information from an insured, a patient of an insured or an attorney that an insured's liability for malpractice is asserted. The report shall include:

1. Date and place. The date and place of the occurrence for which each claim was made;
2. Name of insured; classification of risk. The name of the insured or insureds and the classification of risk;
3. Incident or occurrence for claim. The incident or occurrence for which each claim was made;
4. Amount: The amount claimed;
5. Arbitration agreement. Whether or not each reported claim is subject to an arbitration agreement;
6. Filing of suit or arbitration. Whether or not suit has been filed or arbitration demanded at the time of report on each reported claim; and
7. Other information. Such other information as may be required pursuant to section 2604.

§2603. Report of disposition

1. Report; finality of judgment or award. If any claim subject to section 2602 results in:

A. A final judgment or award to the claimant in any amount;

B. A settlement involving payment in any amount of money or services; or

C. A final disposition not involving any payment of money or services,

← the insurer shall make a report of disposition as provided in subsection 2.

← For purposes of this section, a judgment or award is final when it  
 ← cannot be appealed, and a disposition is final when it results from judgment,  
 ← dismissal, withdrawal or abandonment.

2. Information included.

↳ The report of disposition required pursuant to subsection 1 shall

include:

A. The name, address and specialty coverage of the insured;

B. The insured's policy number;

C. The date and place of the occurrence which created the claim.

D. The date of suit, if filed or arbitration if demanded.

E. The date and amount of judgment, award or settlement, if any;

F. The allocated claim expense, if any;

G. The date and reason for final disposition, if no judgment, award or settlement;

H. A summary of the occurrence which created the claim; and

I. Such other information as may be required pursuant to section 2604.

§2604. Place and form of reports

Claims reports and reports of disposition required by this <-> chapter shall be made to the -> Superintendent of Insurance, who shall prescribe the form and content of the reports. The Superintendent shall determine the frequency of claims reports, provided the period covered by the reports shall not be less than one month nor more than one year. Reports of disposition shall be made within 60 days of the judgment, award, settlement or other disposition of <sup>the</sup> claim as provided under section 2603.

§2605. Records of superintendent

For the purpose of evaluation of policy provisions, rate structures and the arbitration process and for recommendations of further legislation, the Superintendent of Insurance shall retain the information and maintain the files in the form and for <sup>such</sup> period as he shall determine necessary. The Superintendent shall maintain the data and information filed in accordance with this section as strictly confidential records and shall release the same only for bona fide research, educational or legislative purposes, or as required by section 2606. The Superintendent shall determine the validity of any request for the information. Reports made to the Superintendent and records thereof kept by the Superintendent shall not be subject to discovery and shall not be admissible in any trial, civil or criminal, other than proceedings brought before or by the Board.

§2606. Report to board

The Superintendent shall, within 30 days of their receipt, submit to the appropriate Board a copy or summary of reports received <sup>pursuant</sup> to section 2602 or section 2603.

§260 7. Immunity

There shall be no liability on the part of and a cause of action of any nature shall not arise against an insurer reporting hereunder or its agents or employees, or the Superintendent or his representatives, for any action taken by them pursuant to this ← chapter. '

Statement of Fact

This amendment would establish a system of data collection on malpractice issues without restricting the rights of a person injured by a physician's malpractice. After sufficient data has been collected, the issue can be reexamined.

Filed by Mr. Kelleher of Bangor.

Reproduced and distributed under the direction of the Clerk  
of the House.  
6/22/77

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