

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 479

H. P. 373

House of Representatives, February 9, 1979

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. MacEachern of Lincoln.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Encourage Peer Review Activities in Health Care by Protecting
Individuals Participating in Peer Review and by Protecting the Records of Peer
Review Organizations.**

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

14 MRSA c. 8 is enacted to read:

CHAPTER 8

IMMUNITY OF PEER REVIEW ACTIVITIES IN HEALTH CARE

§ 181. Short title

This chapter shall be known and may be cited as the "Peer Review Protection Act."

§ 182. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Health care facility.** "Health care facility" means a hospital, a nursing home or another facility licensed by the State to provide inpatient health care services for periods in excess of 24 consecutive hours.

2. **Peer review.** "Peer review" means the procedure for evaluation by professional health care providers of the quality and efficiency of services ordered or performed by other professional health care providers, including practice analysis, inpatient health care facility utilization review, medical audit, ambulatory care review, claims review and the compliance of a health care facility operated by a professional health care provider with the standards set by an association of health care providers and with applicable laws, rules and regulations.

3. **Professional health care provider.** "Professional health care provider" means individuals who, or organizations which, are licensed or approved to practice or operate in the health care field under the laws of the State, including, but not limited to, the following individuals or organizations:

- A. A physician;
- B. A dentist;
- C. A podiatrist;
- D. A chiropractor;
- E. An optometrist;
- F. A psychologist;
- G. A pharmacist;
- H. A registered or practical nurse;
- I. A physical therapist;
- J. An occupational therapist;
- K. A speech therapist;
- L. A social worker;
- M. An administrator of a health care facility; or
- N. A corporation or other organization operating a licensed health care facility.

4. **Professional society.** "Professional society" means an organization having as members at least a majority of the eligible licensees, whether they are persons or organizations, in the area served, which organization represents professional health care providers as defined.

5. **Review organization.** "Review organization" means any committee or group engaging in peer review, including a hospital utilization review committee, a hospital tissue committee, a health insurance review committee, a health planning corporation review committee, a professional health service plan review committee, a dental review committee, a physicians' advisory committee, a nursing advisory committee, any committee established pursuant to the medical

assistance program and any committee established by one or more state or local professional societies, to gather and review information relating to the care and treatment of patients for the purposes of:

- A. Evaluating and improving the quality of health care rendered;
- B. Reduced morbidity or mortality; or
- C. Establishing and enforcing guidelines designed to keep the cost of health care within reasonable bounds.

It shall also mean any hospital board or committee reviewing the professional qualifications or activities of its medical staff or applicants for admission thereto.

It shall also mean a committee of an association of professional health care providers reviewing the operation of health care facilities.

§ 183. Immunity from liability

1. Person providing information. Notwithstanding any other provision of law, no person providing information to any review organization shall be held, by reason of having provided the information, to have violated any criminal law, or to be civilly liable under any law, unless:

- A. The information is unrelated to the performance of the duties and functions of the review organization; or
- B. The information is false and the person providing the information knew, or had reason to believe, that the information was false.

2. Member or employee of or counsel to review organization.

A. No individual, who is a member or employee of any review organization or who furnishes professional counsel or services to the organization, shall be held by reason of the performance by him of any duty, function or activity authorized or required of review organizations to have violated any criminal law, or to be civilly liable under any law, provided he has exercised due care.

B. Paragraph A shall not apply with respect to any action taken by any individual if the individual, in taking the action, was motivated by malice toward any person affected by the action.

§ 184. Confidentiality of review organization's records

The proceedings and records of a review committee or group shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action against a professional health care provider arising out of the matters which are the subject of evaluation and review by the committee and no person who was in attendance at a meeting of that committee shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of that committee or as to ar

findings, recommendations, evaluations, opinions or other actions of that committee or any members thereof; provided that information, documents or records otherwise available from original sources are not to be construed as immune from discovery or used in any civil action merely because they were presented during proceedings of that committee, nor should any person who testifies before that committee or who is a member of that committee be prevented from testifying as to matters within his knowledge, but the witness cannot be asked about his testimony before such a committee or opinions formed by him as a result of the committee hearings.

STATEMENT OF FACT

This bill will encourage peer review activities in health care by protecting individuals participating in peer review and by protecting the records of peer review organizations.