

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
109TH LEGISLATURE (Filing No. S-271)
FIRST REGULAR SESSION

SENATE AMENDMENT "B" to H.P. 935, L.D. 1165, Bill,
"AN ACT Relating to Access, Copying and Release of Medical
Records."

Amend the Bill by striking out everything after the
enacting clause and inserting in its place the following:

'Sec. 1. 22 MRSA §1712 and 1713 are enacted to read:

§1712. Notice of, provisions for, access and copying of medical records.

1. Notice. An institution licensed or certified by the State as an intermediate care facility or skilled nursing facility shall provide written notice, publicly displayed in admitting and discharge offices, that a patient is entitled to have access to and secure copies of his medical record while residing in the institution or after having resided in the institution.

2. Access.

A. If a patient of an institution licensed or certified by the State as an intermediate care facility or skilled nursing facility desires access to his medical records while residing in the institution or after having resided in the institution, the institution shall provide access within a reasonable period of time. The reasonable period of time shall mean, for a patient currently residing in the institution, that the patient shall be permitted access to records immediately upon request. For patients not currently residing in the institution who have formerly resided in the institution, reasonable period of time shall not exceed 48 hours after the request.

B. If the institution is of the opinion that access to the records by the patient would be detrimental to the health of the patient, the institution shall advise the patient that the records shall be made available to the patient's authorized adult representative signed by the patient.

C. If an authorized adult representative for a patient requests, in writing, that the institution provide the authorized adult representative access to the patient's medical records, and presents proper authorization from the present or former patient for the release of the information, access shall be provided the authorized adult representative within a reasonable period of time. Reasonable period of time shall be the same as defined in paragraph A.

D. Those representatives of the institution with authority to release medical records include: the administrator; the director of nurses; or the person in charge of the medical records at the time the request is made.

3. Copying of records. The patient, or his authorized representative, may, after reviewing the records, request copies of all or a portion of the records. Reasonable cost incurred by the institution in making and providing copies of medical records shall be borne by the requestor and the institution may require payment prior to responding to the request.

§ 1713. Release of medical records

1. Consent and authorization to release.

A. An institution licensed or certified by the State as an intermediate care facility or skilled nursing facility shall not release medical records to any person other than to patients residing or having formerly resided in the institution, or their authorized representatives, or a patient's physician, pursuant to section 1712, unless the patient, or his estate if the patient is deceased, provides written authorization for that release. The institution shall notify patients that they may limit their authorization to specified records or particular persons. Any authorization shall expire 2 years from the date of signing.

B. An institution may release information without consent only if the life or health of the patient or of another person is involved.

2. Release list. The institution shall maintain a list of all persons to whom it has released a patient's records. This list shall be part of the patient's medical records.

3. Penalties. Any institution which releases medical records without proper authorization commits a civil violation for which a forfeiture of not less than \$250 shall be adjudged.

4. Research. Any portion of a medical record may be released by an institution for bona fide research purposes, provided that the identity of the patient cannot be ascertained in the final research product.

5. Exception for other state or federal provisions. This section shall not prohibit release of information in medical records if release is authorized or required by other state or federal statutes or regulations.

Statement of Fact

This amendment does the following:

1. Provides for a notice in intermediate care and skilled nursing facilities;
2. Specifies a right to access for present and former patients of intermediate care and skilled nursing facilities; and
3. Makes explicit the procedures for release to someone other than the patient

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