

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 518

7 H.P. 377

House of Representatives, February 12, 1985

8 Reference to the Committee on Judiciary suggested and ordered printed.

9 EDWIN H. PERT, Clerk

10 Presented by Representative Paradis of Augusta.

Cosponsored by Senator Carpenter of Aroostook.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Concerning Peer Review Immunity and
18 Confidentiality of Records in the
19 Fields of Dentistry and Dental Hygiene.
20

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

23 32 MRSA §1094-A, as enacted by PL 1975, c. 484,
24 §11, is repealed and the following enacted in its
25 place:

26 §1094-A. Peer review immunity and confidentiality of
27 records

28 Any member of a peer review committee of a state
29 or local association or society composed of doctors
30 of dentistry, any staff member of such a society or
31 association assisting the peer review committee, any
32 witness or consultant appearing before or presenting
33 information to the peer review committee shall be im-
34 immune from liability in any civil or criminal action
35 brought by a licensee who is the subject of a peer

1 review investigation or proceeding conducted by the
2 committee, if the society or association, committee
3 member, staff person, witness or consultant acted in
4 good faith within the scope of the function of the
5 committee; made a reasonable effort to obtain the
6 facts of the matter as to which the society, associa-
7 tion or he acts; and acts in the reasonable belief
8 that the action taken was warranted by the facts.

9 Any entity, organization or person acting without
10 malice in making any report or other information
11 available to the peer review committee or who assists
12 in the origination, investigation or preparation of
13 that information, or assists the committee in carry-
14 ing out any of its duties or functions, shall be im-
15 mune from civil or criminal liability for any such
16 actions.

17 Any communications or information relating to
18 peer review committee investigations or proceedings
19 and the proceedings and records of the peer review
20 committee related to investigations or proceedings
21 shall be held in confidence and shall not be subject
22 to discovery or introduced into evidence in any civil
23 action against a dentist arising out of matters which
24 are the subject of evaluation and review by the peer
25 review committee. No person who was in attendance at
26 a meeting of the peer review committee may be permit-
27 ted or required to testify in any such civil action
28 as to any evidence or other matters produced or pre-
29 sented during the meeting of the peer review commit-
30 tee or as to any findings, recommendations, evalua-
31 tions, opinions or other actions of the peer review
32 committee or any members of the committee or consul-
33 itants to the committee. Information, documents or
34 records otherwise available from original sources are
35 not to be construed as immune from discovery or use
36 in any such civil action merely because they were
37 presented during proceedings of the peer review com-
38 mittee and any documents or records which have been
39 presented to the peer review committee by any witness
40 shall be returned to the witness, if requested by him
41 or if ordered to be produced by a court of competent
42 jurisdiction in any action, with copies of documents
43 or records to be retained by the peer review commit-
44 tee at its discretion. Any person who testifies be-
45 fore the peer review committee may not be asked about

1 his testimony before the peer review committee or
2 opinions formed by him as a result of the hearings.

3

STATEMENT OF FACT

4 This bill provides for immunity in civil and
5 criminal actions for dental peer review committee
6 members and staff members, witnesses, consultants and
7 those who provide information to those committees or
8 cooperate with those committees.

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