

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No. 784

S.P. 295

In Senate, February 28, 1985

Reference to the Committee on Business and Commerce suggested. On motion of Senator Violette of Aroostook, referred to the Committee on Human Resources. Sent down for concurrence and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Chalmers of Knox.

Cosponsored by Representative Melendy of Rockland, Senator Gill of Cumberland and Senator Bustin of Kennebec.

STATE OF MAINE

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

AN ACT to Encourage Early Identification
and Treatment of Impaired Physicians.

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

Sec. 1. 24 MRSA §2502, sub-§4, as enacted by PL 1977, c. 492, §3, is amended to read:

4. Professional competence committee. "Professional competence committee" means a committee of members of a professional society or other organization of physicians formed pursuant to state and federal law and authorized to evaluate medical and health care service, or a committee of licensed professionals authorized or privileged to practice in any health care facility, provided the medical society or other organization or the medical staff or the health care facility operates pursuant to written by-laws that have been approved by the governing body of such society, organization or facility. "Professional competence committee" also means a committee of

1 physicians formed by a professional society for the
2 purpose of identifying and working with physicians
3 who are disabled or impaired by virtue of physical or
4 mental infirmity or by the misuse of alcohol or
5 drugs, as long as such committee operates pursuant to
6 protocols approved by the Board of Registration in
7 Medicine.

8 Sec. 2. 24 MRSA §2505, as enacted by PL 1977, c.
9 492, §3, is amended to read:

10 §2505. Committee reports

11 Any professional competence committee within this
12 State and any physician licensed to practice or oth-
13 erwise lawfully practicing within this State shall,
14 and any other person may, report the relevant facts
15 to the appropriate board relating to the acts of any
16 physician in this State if, in the opinion of the
17 committee, physician or other person, the committee
18 or individual has reasonable knowledge of acts of the
19 physician amounting to gross or repeated medical mal-
20 practice, habitual drunkenness, addiction to the use
21 of drugs or professional incompetence. The failure of
22 any such professional competence committee or any
23 such physician to report as required is a civil vio-
24 lation for which a fine of not more than \$1,000 may
25 be adjudged. Except for specific protocols developed
26 by the board pursuant to Title 32, section 3298, no
27 physician or committee is responsible for reporting
28 habitual drunkenness or use of drugs or professional
29 incompetence or malpractice as a result of physical
30 or mental infirmity or by the misuse of alcohol or
31 drugs discovered by the physician or committee as a
32 result of participation or membership in a physician
33 committee organized pursuant to section 2502, subsec-
34 tion 4, or with respect to any information acquired
35 concerning habitual drunkenness or use of drugs or
36 professional incompetence or malpractice as a result
37 of physical or mental infirmity or by the misuse of
38 alcohol or drugs, as long as that information is re-
39 ported to the committee.

40 Sec. 3. 24 MRSA §2510, sub-§3, as enacted by PL
41 1977, c. 492, §3, is amended to read:

1 3. Availability of confidential information. In
2 no event ~~shall~~ may confidential information received,
3 maintained or developed by the board, or disclosed by
4 the board to others, pursuant to this chapter, or in-
5 formation, data, incident reports or recommendations
6 gathered or made by or on behalf of a health care
7 provider pursuant to this chapter, be available for
8 discovery, court subpoena or introduced into evidence
9 in any medical malpractice suit or other action for
10 damages arising out of the provision or failure to
11 provide health care services. This confidential in-
12 formation includes reports to and information gath-
13 ered by a physician committee organized pursuant to
14 section 2502, subsection 4.

15 Sec. 4. 24 MRSA §2511, as enacted by PL 1977, c.
16 492, §3, is amended to read:

17 §2511. Immunity

18 Any person acting without malice, and any physi-
19 cian, health care provider, professional society, or
20 member of a professional competence committee or of
21 the board, in making any report or other information
22 available to the board or to a physician committee
23 organized pursuant to section 2502, subsection 4,
24 pursuant to law, or in assisting in the origination,
25 investigation or preparation of such information, or
26 in assisting the board or a physician committee or-
27 ganized pursuant to section 2502, subsection 4, in
28 carrying out any of its duties or functions provided
29 by law, shall be immune from civil or criminal lia-
30 bility, except as provided in section 2510, subsec-
31 tion 4, for any such actions.

32 Sec. 5. 32 MRSA §3298 is enacted to read:

33 §3298. Establishment of protocols for operation of
34 physician committee

35 The board may establish protocols for the opera-
36 tion of a physician committee formed pursuant to Ti-
37 tle 24, section 2502, subsection 4, for the purpose
38 of identifying and working with physicians who are
39 disabled or impaired by virtue of physical or mental
40 infirmity or by the misuse of alcohol or drugs. The
41 protocols shall include the committee reporting such

1 information as the board may deem appropriate regard-
2 ing reports received, contacts or investigations made
3 and the disposition of each report, provided that the
4 committee may not be required to disclose any person-
5 ally identifiable information.

6 STATEMENT OF FACT

7 The purpose of this bill is to encourage early
8 identification and treatment of physicians impaired
9 by addiction to drugs or alcohol, or by physical or
10 mental infirmity. The bill does this by providing
11 statutory protection to members of the public and
12 professional colleagues who report disabled or im-
13 paired physicians to a committee organized for the
14 express purpose of dealing with those physicians.
15 The bill also authorizes the Board of Registration in
16 Medicine to develop appropriate protocols for the
17 committee, including periodic reports to the board
18 without personal identifying information. Records of
19 the committee are made confidential.

20 Organizations in most states now have such com-
21 mittees identifying and working with disabled and im-
22 paired physicians and experience has shown that these
23 protections are necessary in order to promote report-
24 ing to the program and to recruit physician members
25 of the committee.

26 Finally, the bill provides an exemption from re-
27 porting an impaired physician to the Board of Regis-
28 tration in Medicine, as required by the Maine Health
29 Security Act, if such physician is reported to the
30 impaired physician committee, or if the relevant in-
31 formation is obtained through a physician's work on
32 that committee. The impaired physician committee
33 would be required to report the impaired physician to
34 the board in some instances, such instances to be
35 identified in the board's protocols.

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