

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 295, L.D. 784)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1435

8 S.P. 534

In Senate, April 29, 1985

9 Reported by Senator Berube of Androscoggin from the Committee on
10 Human Resources and printed under Joint Rule 2. Original bill sponsored by
11 Senator Chalmers of Knox. Cosponsored by Representative Melendy of
Rockland, Senator Gill of Cumberland and Senator Bustin of Kennebec.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT to Encourage Early Identification
19 and Treatment of Impaired Physicians.
20

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

23 Sec. 1. 24 MRSA §2502, sub-§4-A is enacted to
24 read:

25 4-A. Professional review committee. "Profes-
26 sional review committee" means a committee of physi-
27 cians formed by a professional society for the pur-
28 pose of identifying and working with physicians who
29 are disabled or impaired by virtue of physical or
30 mental infirmity or by the misuse of alcohol or
31 drugs, as long as such committee operates pursuant to
32 protocols approved by the Board of Registration in
33 Medicine.

34 Sec. 2. 24 MRSA §2505, as enacted by PL 1977, c.
35 492, §3, is amended to read:

1 §2505. Committee reports

2 Any professional competence committee within this
3 State and any physician licensed to practice or oth-
4 erwise lawfully practicing within this State shall,
5 and any other person may, report the relevant facts
6 to the appropriate board relating to the acts of any
7 physician in this State if, in the opinion of the
8 committee, physician or other person, the committee
9 or individual has reasonable knowledge of acts of the
10 physician amounting to gross or repeated medical mal-
11 practice, habitual drunkenness, addiction to the use
12 of drugs or professional incompetence. The failure of
13 any such professional competence committee or any
14 such physician to report as required is a civil vio-
15 lation for which a fine of not more than \$1,000 may
16 be adjudged.

17 Except for specific protocols developed by the board
18 pursuant to Title 32, section 3298, no physician or
19 committee is responsible for reporting misuse of al-
20 cohol or drugs or professional incompetence or mal-
21 practice as a result of physical or mental infirmity
22 or by the misuse of alcohol or drugs discovered by
23 the physician or committee as a result of participa-
24 tion or membership in a professional review committee
25 or with respect to any information acquired concern-
26 ing misuse of alcohol or drugs or professional incom-
27 petence or malpractice as a result of physical or
28 mental infirmity or by the misuse of alcohol or
29 drugs, as long as that information is reported to the
30 professional review committee. Nothing in this sec-
31 tion may prohibit an impaired physician from seeking
32 alternative forms of treatment.

33 Sec. 3. 24 MRSA §2510, sub-§3, as enacted by PL
34 1977, c. 492, §3, is amended to read:

35 3. Availability of confidential information. In
36 no event ~~shall~~ may confidential information received,
37 maintained or developed by the board, or disclosed by
38 the board to others, pursuant to this chapter, or in-
39 formation, data, incident reports or recommendations
40 gathered or made by or on behalf of a health care
41 provider pursuant to this chapter, be available for
42 discovery, court subpoena or introduced into evidence
43 in any medical malpractice suit or other action for

1 damages arising out of the provision or failure to
2 provide health care services. This confidential in-
3 formation includes reports to and information gath-
4 ered by a professional review committee.

5 Sec. 4. 24 MRSA §2511, as enacted by PL 1977, c.
6 492, §3, is amended to read:

7 §2511. Immunity

8 Any person acting without malice, and any physi-
9 cian, health care provider, professional society, or
10 member of a professional competence committee or of
11 the board, in making any report or other information
12 available to the board or to a professional review
13 committee pursuant to law, or in assisting in the
14 origination, investigation or preparation of such in-
15 formation, or in assisting the board or a profession-
16 al review committee in carrying out any of its duties
17 or functions provided by law, shall be immune from
18 civil or criminal liability, except as provided in
19 section 2510, subsection 4, for any such actions.

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

21 §3298. Establishment of protocols for operation of
22 professional review committee

23 The board may establish protocols for the opera-
24 tion of a professional review committee as defined in
25 Title 24, section 2502, subsection 4-A. The protocols
26 shall include the committee reporting information the
27 board considers appropriate regarding reports re-
28 ceived, contacts or investigations made and the dis-
29 position of each report, provided that the committee
30 may not be required to disclose any personally iden-
31 tifiable information. Nothing in the protocols may
32 prohibit an impaired physician from seeking alterna-
33 tive forms of treatment.

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STATEMENT OF FACT

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This new draft establishes a clearly identifiable committee of professional review to carry out the purposes of the new draft, changes a reference to "habitual drunkenness" to "misuse of alcohol" and adds language to insure that alternative forms of treatment are available for impaired physicians.

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