

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1943

S.P. 713

In Senate, January 4, 1988

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on December 30, 1987. Referred to the Committee on Judiciary and 1400 ordered printed pursuant to Joint Rule 14.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland.

STATE OF MAINE

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

AN ACT to Clarify the Immunity Provisions  
Affecting Professional Review and  
Professional Competence Committees.

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3  
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5 Be it enacted by the People of the State of Maine as  
6 follows:

7 24 MRSA §2511, as repealed and replaced by PL  
8 1987, c. 402, Pt. B, §20, is amended to read:



1 committee established by hospital medical staffs or  
2 medical societies to engage in medical peer review.

3 Because the 2 Acts passed in 1985 did not refer to  
4 each other, it was necessary in 1986 to reenact the  
5 law making reference to both changes. This was done  
6 through Public Law 1986, chapter 737.

7 However, during the same session, chapter 804, the  
8 so-called omnibus medical malpractice legislation,  
9 repealed section 2511 and reenacted it without  
10 reference to the 2 1985 changes. This was an error.  
11 To rectify the inconsistent 1986 actions with  
12 reference to section 2511, the 1987 errors bill simply  
13 repealed both and reenacted the section from chapter  
14 804 which was in error.

15 By deleting reference to professional competence  
16 committees and professional review committees, a  
17 question is raised whether persons, including  
18 physicians, are immune from liability for reporting to  
19 the committees. While one may argue that these  
20 committees are "authorities" under the law, thus  
21 protecting reporters even under the language in  
22 chapter 804, a contrary position may be argued as well.

23 Persons reporting to the impaired physician  
24 committee and to professional competence committees,  
25 and members of those committees, deserve assurance  
26 that their reporting and working with impaired  
27 colleagues does not result in civil liability. This  
28 work is generally done without compensation and is  
29 unlikely to be accomplished without the clear  
30 protection of the 1977 legislation being clarified.

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