MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

1 2 3 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 C	larify	the Immu	nity Pro	visions
	Affecti	ng Prof	essional	Review	and
	Professi	onal Co	mpetence	Committ	ees.

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- 7 24 MRSA §2511, as repealed and replaced by PL 1987, c. 402, Pt.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

§2511. Immunity

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acting without malice, physician, person Any health care provider, professional society or member of a professional competence committee or of any board or authority acting without malice, in making any other information available report or to any appropriate board or authority, or a professional review or a professional competence committee pursuant or in assisting in the origination, investigation or preparation of that information or in assisting the board of , authority or committee in carrying out any of its duties or functions provided law, shall be immune from civil or criminal liability, except as provided in section

STATEMENT OF FACT

subsection 4, for any such actions.

17 and inconsistencies bill in errors 18 corrected a technical error created when 2 somewhat different versions of the Maine Revised Statutes, 19 Title 24, section 2511 were enacted in 1986. 20 21 24, section 2511, was originally enacted as part of 22 the Maine Health Security Act as Public Law 1977, 23 chapter 492. The board referred to in the law is the Board of Registration in Medicine. In 1985, 2 different bills amended section 2511 in a manner not 24 25 26 inconsistent with one another. The intent of L.D. 1435, AN ACT to Encourage Early Identification and 27 Treatment of Impaired Physicians, was to include what 28 29 is known as a "professional review committee", which 30 a committee which identifies and works with impaired physicians, so that persons making reports to the committee would be protected. This addition to 31 32 the law was accomplished by passage of Public Law 33 1985, chapter 185, section 4.

Public Law 1985, chapter 193, entitled AN ACT to Clarify the Law Regarding Peer Review Immunity Under the Maine Health Security Act added to section 2511 a provision providing immunity for persons reporting to "a professional competence committee." This committee is defined in the Maine Health Security Act as a

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

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

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

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

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

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