

# MAINE STATE LEGISLATURE

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1           1. Board. "Board" means the Board of Registration  
2 in Medicine or, the Board of Osteopathic  
3 Examination and Registration, the State Board of  
4 Nursing, the Board of Examiners of Podiatrists, the  
5 State Board of Optometry, the Board of Chiropractic  
6 Examination and Registration, the Board of Examiners  
7 in Physical Therapy, the Board of Dental Examiners,  
8 the State Board of Examiners of Psychologists, and any  
9 other board which licenses, registers, certifies or  
10 regulates health care practitioners.

11           Sec. 2. 24 MRSA §2502, sub-§4-A, as enacted by  
12 PL 1985, c. 185, §1, is amended to read:

13           4-A. Professional review committee.  
14 "Professional review committee" means a committee of  
15 physicians and other health care practitioners formed  
16 by a professional society for the purpose of  
17 identifying and working with physicians and other  
18 health care practitioners who are disabled or impaired  
19 by virtue of physical or mental infirmity or by the  
20 misuse of alcohol or drugs, as long as such committee  
21 operates pursuant to protocols approved by the Board  
22 of Registration in Medicine or by such other relevant  
23 board.

24           Sec. 3. 24 MRSA §2502, sub-§5, as enacted by PL  
25 1977, c. 492, §3, is amended to read:

26           5. Professional society. "Professional society"  
27 means a state professional organization of physicians,  
28 surgeons or, osteopathic physicians or other health  
29 care practitioners.

30           Sec. 4. 24 MRSA §2504, as enacted by PL 1977, c.  
31 492, §3, is amended to read:

32 §2504. Professional societies

33           Every state professional society for physicians  
34 shall establish a professional competence committee of  
35 its members pursuant to written bylaws approved by the  
36 society's governing board. The committee shall  
37 receive, investigate and determine the accuracy of any  
38 report made to the society of any member physician's

1 acts amounting to gross or repeated medical  
2 malpractice, habitual drunkenness, addiction to the  
3 use of drugs or professional incompetence.

4 Sec. 5. 24 MRSA §2505, as amended by PL 1985, c.  
5 185, §2, is further amended to read:

6 §2505. Committee, physician and health care  
7 practitioner reports

8 Any professional competence committee within this  
9 State and any physician or other health care  
10 practitioner licensed to practice or otherwise  
11 lawfully practicing within this State shall, and any  
12 other person may, report the relevant facts to the  
13 appropriate board relating to the acts of any  
14 physician or other health care practitioner in this  
15 State if, in the opinion of the committee, physician,  
16 health care practitioner or other person, the  
17 committee or individual has reasonable knowledge of  
18 acts of the physician or other health care  
19 practitioner amounting to gross or repeated medical  
20 malpractice, habitual drunkenness, addiction to the  
21 use of drugs, unprofessional conduct or professional  
22 incompetence. The failure of any such professional  
23 competence committee or, any such physician or any  
24 such health care practitioner to report as required is  
25 a civil violation for which a fine of not more than  
26 \$1,000 may be adjudged.

27 Except for specific protocols developed by the  
28 board Board of Registration in Medicine pursuant to  
29 Title 32, section 3298, or developed by another board  
30 pursuant to statutory authorization, no physician,  
31 other health care practitioner or committee is  
32 responsible for reporting misuse of alcohol or drugs  
33 or professional incompetence or malpractice as a  
34 result of physical or mental infirmity or by the  
35 misuse of alcohol or drugs discovered by the  
36 physician, other health care practitioner or committee  
37 as a result of participation or membership in a  
38 professional review committee or with respect to any  
39 information acquired concerning misuse of alcohol or  
40 drugs or professional incompetence or malpractice as a  
41 result of physical or mental infirmity or by the

1 misuse of alcohol or drugs, as long as that  
2 information is reported to the professional review  
3 committee. Nothing in this section may prohibit an  
4 impaired physician or other health care practitioner  
5 from seeking alternative forms of treatment.

6 **Sec. 6. 24 MRSA §2506**, as amended by PL 1985, c.  
7 804, §§6 and 22, is further amended to read:

8 §2506. Provider reports

9 A health care provider shall, within 60 days,  
10 report in writing to the appropriate board or  
11 authority the name of any licensed, certified or  
12 registered employee, health care practitioner or  
13 person privileged by the provider whose employment or  
14 privileges have been revoked, suspended, limited or  
15 terminated, together with pertinent information  
16 relating to that action. This shall include situations  
17 where employment or privileges have been revoked,  
18 suspended, limited or terminated by action of the  
19 health care practitioner while the health care  
20 practitioner was under investigation or the subject of  
21 proceedings, and it also shall include situations  
22 where employment or privileges have been revoked,  
23 suspended, limited or terminated by act of the health  
24 care practitioner in return for the health care  
25 provider not conducting or for its ceasing such  
26 investigation or proceeding. Any reversal,  
27 modification or change of action reported pursuant to  
28 this section shall be reported immediately to the  
29 board or authority, together with a brief statement of  
30 the reasons for that reversal, modification or change.  
31 The failure of any such health care provider to report  
32 as required is a civil violation for which a fine of  
33 not more than \$1,000 may be adjudged.

34 **Sec. 7. 24 MRSA §§2507 and 2508**, as enacted by  
35 PL 1977, c. 492, §3, are amended to read:

36 §2507. Society reports

37 Any professional society within this State which  
38 takes formal disciplinary action against a member  
39 relating to professional ethics, professional

1 incompetence, moral turpitude, or drug or alcohol  
2 abuse shall, within 60 days of the action, report in  
3 writing to the appropriate board the name of the  
4 member, together with pertinent information relating  
5 to the action. This shall include situations where  
6 membership or privileges have been revoked, suspended,  
7 limited or terminated by action of the health care  
8 practitioner while the health care practitioner was  
9 under investigation or the subject of proceedings, and  
10 it shall also include situations where employment or  
11 privileges have been revoked, suspended, limited or  
12 terminated by an act of the health care practitioner  
13 in return for the professional society's not  
14 conducting or for its ceasing such investigation or  
15 proceeding. The failure of any such society to report  
16 as required is a civil violation for which a fine of  
17 not more than \$1,000 may be adjudged.

18 §2508. Effect of filing

19 The filing of a report with the board pursuant to  
20 this chapter, investigation by the board or any  
21 disposition by the board shall not, in and of itself,  
22 preclude any action by a hospital or other health care  
23 facility or professional society comprised primarily  
24 of physicians or other health care practitioners to  
25 suspend, restrict or revoke the privileges or  
26 membership of the physician or other health care  
27 practitioner.

28 STATEMENT OF FACT

29 The purpose of this bill is to clarify the  
30 requirements for mandatory reporting of problematic  
31 practice and conduct by health care practitioners.  
32 This bill will clarify the circumstances under which  
33 health care practitioners, professional review  
34 committees, professional societies and health care  
35 providers are required to report health care  
36 practitioners to their respective health care  
37 licensure boards.

38 Pursuant to the Maine Revised Statutes, Title 24,

1 section 2502, subsection 1-A, the definition of health  
2 care practitioners includes physicians and all others  
3 practicing the healing arts. Despite the more  
4 expansive reporting required by the 1985 amendments to  
5 Title 24, chapter 21, subchapter I, it has been  
6 suggested that the statutory language requiring  
7 reporting of nonphysicians remains ambiguous. It is  
8 the purpose of this bill to resolve affirmatively this  
9 issue and to make it clear that reports are required  
10 regarding all health care practitioners.

11 It is not the purpose of this bill to require  
12 every health care practitioner professional society to  
13 establish a professional competence committee,  
14 although each certainly may do so. Therefore, Title  
15 24, section 2504 is being amended to maintain the  
16 current requirement that only the professional  
17 societies for physicians must establish professional  
18 competence committees. However, if other professional  
19 societies do establish professional competence  
20 committees, then they shall be required to report  
21 their respective health care practitioners to the  
22 appropriate boards, pursuant to Title 24, section 2507.

23 The amendments to Title 24, section 2505 clarify  
24 that all health care practitioners are subject to the  
25 mandatory reporting requirements which previously  
26 referred specifically only to physicians. In  
27 addition, the amendments to the 2nd paragraph of  
28 section 2505 authorize all boards to develop specific  
29 protocols for handling impaired practitioners, such as  
30 those currently existing between the Board of  
31 Registration in Medicine and the Maine Medical  
32 Association. If such protocols are developed, they  
33 must be done pursuant to separate statutory  
34 authorization and should be approved by the Department  
35 of the Attorney General.

36 The amendments to Title 24, section 2506 further  
37 clarify that reports shall be made by health care  
38 providers regarding actions affecting the employment  
39 or privileges of all health care practitioners. This  
40 section makes it clear that health care providers must  
41 report health care practitioners to the appropriate  
42 board, even if a practitioner voluntarily resigns or

1 otherwise limits employment or privileges. The  
2 purpose of this amendment is to bring relevant  
3 information before the appropriate board, regardless  
4 of whether formal action is taken by the health care  
5 provider or whether it is the practitioner who takes  
6 the action. The amendments to Title 24, section 2507  
7 are intended to affect a similar clarification.

8 It is anticipated that this bill shall result in  
9 the board's being better informed of problems  
10 experienced by health care practitioners.

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