

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 417

S.P. 190

In Senate, February 23, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HOBBS of York.

Cosponsored by Senator BRANNIGAN of Cumberland.

STATE OF MAINE

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

An Act to Amend the Medical Health Security Act to Include Podiatrists.



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

3 Sec. 1. 24 MRSA §2904, as enacted by PL 1977, c. 492, §3, is
5 amended to read:

7 §2904. Immunity from civil liability for volunteer activities

9 Notwithstanding any inconsistent provision of any public or
11 private and special law, no licensed physician, or podiatrist as
13 defined in Title 32, section 3551, who voluntarily, without the
15 expectation or receipt of monetary or other compensation,
17 provides professional services within the scope of his that
19 physician's or podiatrist's licensure to a nonprofit organization
21 or to an agency of the State or to members or recipients of
23 services of that organization or state agency shall may be liable
for damages or injuries alleged to have been sustained by the
person nor for damages for the death of the person when the
injuries or death are alleged to have occurred by reason of an
act or omission in the rendering of professional services, unless
it is established that the injuries or the death were caused
willfully, wantonly, recklessly or by gross negligence of the
licensed physician or podiatrist.

25 Sec. 2. 24 MRSA §2905, sub-§1, as enacted by PL 1977, c. 492,
§3, is amended to read:

27 1. Disallowance of recovery on grounds of lack of informed
29 consent. No recovery shall may be allowed against any physician,
31 podiatrist or any health care provider upon the grounds that the
33 health care treatment was rendered without the informed consent
of the patient or the patient's spouse, parent, guardian, nearest
relative or other person authorized to give consent for the
patient where when:

35 A. The action of the physician or podiatrist in obtaining
37 the consent of the patient or other person authorized to
39 give consent for the patient was in accordance with the
standards of practice among members of the same health care
profession with similar training and experience situated in
the same or similar communities; and

41 B. A reasonable person, from the information provided by
43 the physician or podiatrist under the circumstances, would
45 have a general understanding of the procedures or treatments
47 and of the usual and most frequent risks and hazards
inherent in the proposed procedures or treatments which are
49 recognized and followed by other physicians or podiatrists
engaged in the same field of practice in the same or similar
communities; or

51 C. A reasonable person, under all surrounding
circumstances, would have undergone such treatment or

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procedure had he that person been advised by the physician
or podiatrist in accordance with paragraphs A and B or this
paragraph.

STATEMENT OF FACT

This bill includes podiatrists in the laws regarding
immunity from civil liability for volunteer services and informed
consent to health care treatment.