

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 330, L.D. 449, Bill, "An Act Concerning an Employee's Right to Review the Employee's Personnel File"

Amend the bill in that part designated "§631." in the 14th line (page 1, line 20 in L.D.) by striking out the following: "nonprivileged" and inserting in its place the following: 'nonprivileged'

Further amend the bill in that part designated "§631." by adding at the end a new sentence to read: 'For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all such materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Commission or other administrative tribunals.'

STATEMENT OF FACT

This amendment modifies the bill to clarify the existing protection against disclosure for certain medical records held by an employer. The amendment defines "nonprivileged medical records or nurses' station notes" as all such materials that have not been found to be protected from disclosure under certain court rules during the course of civil litigation. This clarification protects the legitimate interests of employers by providing the same protection in the law as was extended by the court. This prevents an employee from using the law to obtain information not discoverable under court rules. At the same time, the amendment prevents an employer from abusing the "medical records privilege" by limiting its application to clearly defined instances when a court has found the material to be privileged. All other medical records in the employer's possession that relate to an employee may be examined by that employee