

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 727

S.P. 281

In Senate, March 13, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator TWITCHELL of Oxford.

Cosponsored by Representative MacBRIDE of Presque Isle.

## STATE OF MAINE

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

### An Act to Improve the Availability of Emergency Obstetrical Services.



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

3 32 MRSA §3299 is enacted to read:

5 §3299. Emergency obstetrical services

7 1. Limited liability. A physician who serves on an on-call  
9 basis to a hospital emergency room, who in good faith renders  
11 emergency obstetrical services to a person while serving on-call,  
13 is not liable for any civil damages as a result of any negligent  
act or omission by the physician in rendering the emergency  
obstetrical services. The immunity granted by this section does  
not apply to acts or omissions constituting gross negligence,  
recklessness or willful misconduct.

15 2. Exceptions. The protections of subsection 1 do not  
17 apply to the licensee:

19 A. If the licensee provided prior medical diagnosis or  
21 treatment to the same patient for a condition having a  
bearing on or relevance to the treatment of the obstetrical  
condition which required emergency services; or

23 B. If before rendering emergency obstetrical services, the  
25 licensee, or another licensee associated with that licensee  
27 in practice, had a contractual obligation or agreement with  
the patient, another licensee, or 3rd-party payer on the  
patient's behalf to provide obstetrical care for the patient.

29 3. Construction. Nothing in this section may be construed  
31 to affect or modify the liability of the hospital for negligence.

33 **STATEMENT OF FACT**

35 The problem of medical liability in the obstetrics area has  
37 made it difficult to retain and recruit obstetricians,  
39 particularly to nonurban areas. When an obstetrician is found  
41 for a rural area, the obstetrician undertakes a huge liability  
43 risk in handling emergency obstetrical patients with whom the  
45 obstetrician has had no prior physician-patient relationship.  
47 These patients frequently arrive after a normal delivery has  
turned out to be a high-risk delivery needing an acute care  
facility. By providing limited immunity, this bill provides an  
incentive and protection for physicians who, despite the  
liability risks, respond to calls to provide emergency medical  
care. This bill is similar to that enacted in 1988 in California  
and Virginia.