

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47
49

L.D. 1407

(Filing No. H-546)

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

COMMITTEE AMENDMENT "A" to H.P. 1009, L.D. 1407, Bill, "An Act to Reduce Medical Malpractice"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act Concerning Complaints Against Health Care Practitioners'

Further amend the bill by inserting after the enacting clause the following:

'Sec. 1. 24 MRSA §2506, as amended by PL 1985, c. 804, §§6 and 22, is further amended to read:

§2506. Provider reports

A health care provider shall, within 60 days, report in writing to the appropriate disciplined practitioner's board or authority the name of any licensed, certified or registered employee or person privileged by the provider whose employment or privileges have been revoked, suspended, limited or terminated, together with pertinent information relating to that action. The report shall include situations in which employment or privileges have been revoked, suspended, limited or otherwise adversely affected by action of the health care practitioner while the health care practitioner was the subject of disciplinary proceedings, and it also shall include situations where employment or privileges have been revoked, suspended, limited or otherwise adversely affected by act of the health care practitioner in return for the health care provider terminating such proceeding. Any reversal, modification or change of action reported pursuant to this section shall be reported immediately to the practitioner's board or authority, together with a brief statement of the reasons for that reversal, modification or change. The failure of any such health care provider to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47
49
51

Sec. 2. 24 MRSA §2507, as enacted by PL 1977, c. 492, §3, is amended to read:

§2507. Society reports

Any professional society within this State which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, moral turpitude, or drug or alcohol abuse shall, within 60 days of the action, report in writing to the appropriate board the name of the member, together with pertinent information relating to the action. The report shall include situations in which membership or privileges have been revoked, suspended, limited or otherwise adversely affected by action of the health care practitioner while the health care practitioner was under investigation or the subject of proceedings and it shall also include situations where membership or privileges have been revoked, suspended, limited or otherwise adversely affected by an act of the health care practitioner in return for the professional society's not conducting or for its ceasing such investigation proceeding. The report shall include situations under which an individual under societal investigation resigns during that pending investigation. The failure of any such society to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Sec. 3. 24 MRSA §2608 is enacted to read:

§2608. Cancellation or nonrenewal

Any insurer required to report claims information under this subchapter shall also notify the Superintendent of Insurance of the cancellation or nonrenewal of any insured occasioned by either the number of claims against that insured or by the insured's failure to conform to appropriate standards of the medical profession. The information shall be entitled to the confidentiality protection of section 2604. A copy of the report shall be filed by the superintendent, within 30 days of its receipt, with the applicable licensing board.

Sec. 4. 32 MRSA §2561, as amended by PL 1983, c. 812, §222, is further amended to read:

§2561. Membership; qualifications; tenure; vacancies

The Board of Osteopathic Examination and Registration, as established by Title 5, section ~~12004~~ 12004-A, subsection ~~1~~ 2, and in this chapter called the "board," shall consist of ~~6~~ 7 persons appointed by the Governor. ~~Said~~ These persons shall be residents of this State. Five of ~~said~~ these persons shall be graduates of a legally chartered college of osteopathic medicine

1 or university having the power to confer degrees in osteopathic
2 medicine and shall have been at the time of their appointment
3 actively engaged in the practice of their profession in Maine for
4 a period of at least 5 years, and one 2 of said these persons
5 shall be a representative of the public. Each appointment shall
6 be for a period of 5 years as the terms of the present members
7 expire. Any vacancy in said the board caused by death,
8 resignation or for any other cause, except completion of a full
9 term of service, shall be filled by the appointment of a person
10 qualified as was the member whose place ~~he~~ the person fills to
11 hold office during the unexpired term of ~~such~~ that member. Any
12 member of said the board may be removed from office, for cause,
13 by the Governor with the advice and consent of the ~~Council~~
council. Members of the board on October 4, 1973 shall continue
14 in office to the date of expiration of their current terms.

17 Sec. 5. 32 MRSA §2571, as amended by PL 1983, c. 378, §35, is
18 further amended to read:

19 §2571. Registration; qualifications; fees
20

21 Any person, before engaging in the practice of osteopathic
22 medicine in this State, shall make application for a certificate
23 to the board, on a form prescribed by it. The application shall
24 be filed with the secretary of the board at least 60 days before
25 the date of examination together with a fee of ~~\$125~~ not more than
26 \$200. The applicant shall present a diploma granted by an
27 osteopathic college or university accredited by the American
28 Osteopathic Association having the power to grant a D.O. degree.
29 Applicants graduating from an osteopathic college or university
30 having the power to grant a D.O. degree shall present evidence of
31 having completed an internship of at least 12 months in a
32 hospital conforming to the minimal standards for accreditation by
33 the American Osteopathic Association, or the equivalency, as
34 determined by the board. All applicants shall provide such
35 reasonable and proper facts as the board in its application may
36 require. The board at its discretion may permit an applicant who
37 is otherwise qualified to be examined during ~~his~~ internship, a
38 certificate of licensure to be withheld until successful
39 completion of ~~his~~ internship.

41 Sec. 6. 32 MRSA §2581, 2nd ¶, as amended by PL 1985, c. 804,
42 §§18 and 22, is further amended to read:

43 Every osteopathic physician legally licensed to practice in
44 this State, shall, on or before the first day of January of each
45 year, pay to the secretary of the board a fee as stipulated by
46 the board not to exceed ~~\$125~~ \$200 for the renewal of ~~his-or-her~~
47 the osteopathic physician's certificate to practice. In addition
48 to the payment of such renewal fee, each licensee so applying for
49 the renewal of ~~his-or-her~~ the osteopathic physician's certificate
50 shall, commencing for the year 1975 and thereafter, furnish to

1 said the board satisfactory evidence that he--or--she the
2 osteopathic physician has attended in the year preceding at least
3 50 hours of educational programs devoted to continuing medical
4 education approved by the board. Said The required education must
5 be obtained from formalized programs of continuing medical
6 education sponsored by recognized associations, colleges or
7 universities, hospitals, institutes or groups approved by the
8 board. A copy of the current approved list shall be available in
9 the office of the secretary of the board. At least 40% of these
10 credit hours must be osteopathic medical education approved in
11 the rules and regulations established by the board. The board
12 shall have the authority to adjudicate continuing medical
13 education performance in situations of illness, hardship or
14 military service upon written petition by the applicant. The
15 secretary of said the board shall send a written notice of the
16 foregoing requirements to each such osteopathic physician, at
17 least 60 days prior to each said January 1st, directed to the
18 last known address of the licensee enclosing therewith proper
19 blank forms for application for said renewal. If any licensee
20 shall fail to furnish the board evidence of attendance at
21 continuing medical educational programs, as approved by the
22 board, and fails to pay the said renewal fee, he--or--she the
23 osteopathic physician shall automatically forfeit his--or--her the
24 right to practice osteopathic medicine in this State and his--or
25 her the license, therefore, shall be cancelled. The secretary of
26 the board may reinstate him--or--her the osteopathic physician upon
27 the presentation of satisfactory evidence of continuing medical
28 education as outlined and approved by the board and upon payment
29 of the renewal fee.

31 Sec. 7. 32 MRSA §2591-A, sub-§3 is enacted to read:

32 3. Report. By March 1st of each year, the board shall
33 submit to the Legislature a report consisting of statistics on
34 the following for the preceding year:

35 A. The number of complaints against licensees received from
36 the public or filed on the board's own motion;

37 B. The number of complaints dismissed for lack of merit or
38 insufficient evidence of grounds for discipline;

39 C. The number of cases in process of investigation or
40 hearing carried over at year end; and

41 D. The number of disciplinary actions finalized during the
42 report year as tabulated and categorized by the annual
43 statistical summary of the Physician Data Base of the
44 Federation of State Medical Boards of the United States, Inc.
45

1 Sec. 8. 32 MRSA §2599-A is enacted to read:

3 §2599-A. Promulgation of complaint procedures

5 By June 1, 1990, the Board of Osteopathic Examination and
7 Registration shall prepare materials that will indicate to
9 patients their rights in dealing with doctors of osteopathy and
11 how a complaint may be filed with the board if these rights are
13 violated. By April 1, 1990, the board shall submit these
15 materials and the plan for their dissemination for review to the
17 joint standing committee of the Legislature having jurisdiction
19 over business legislation prior to their initial printing.'

21 Further amend the bill in section 1 in the 4th line (page 1,
23 line 7 in L.D.) by striking out the following: "section 12004,
25 subsection 1," and inserting in its place the following:
27 'section 12004 12004-A, subsection 1 24.'

29 Further amend the bill in section 1 in the 5th line (page 1,
31 line 8 in L.D.) by striking out the following: "12" and
33 inserting in its place the following: '10'

35 Further amend the bill in section 1 in the 6th line (page 1,
37 line 9 in L.D.) by striking out the following: "Five" and
39 inserting in its place the following: 'Three'

41 Further amend the bill in section 1 in the 12th and 13th
43 lines (page 1, lines 15 and 16 in L.D.) by striking out the
45 following: "Three--persons One third of the members" and
47 inserting in its place the following: 'Three persons'

49 Further amend the bill in section 1 in the 17th line (page
51 1, line 20 in L.D.) by inserting after the following:
53 "appointment" the following: 'except that at every 3rd
55 uneven-numbered year beginning in 1991, a 4th person shall be
57 appointed'

59 Further amend the bill in section 3 by striking out all of
61 subsection 8-A (page 1, lines 37 to 51 in L.D.) and inserting in
63 its place the following:

65 '8-A. Report. By March 1st of each year, the board shall
67 submit to the Legislature a report consisting of statistics on
69 the following for the preceding year:

71 A. The number of complaints against licensees received from
73 the public or filed on the board's own motion;

75 B. The number of complaints dismissed for lack of merit or
77 insufficient evidence of grounds for discipline;

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47
49
51

C. The number of cases in process of investigation or hearing carried over at year end; and

D. The number of disciplinary actions finalized during the report year as tabulated and categorized by the annual statistical summary of the Physician Data Base of the Federation of State Medical Boards of the United States, Inc.'

Further amend the bill in section 4 by striking out all of subsection 15 (page 2, lines 4 to 18 in L.D.) and inserting in its place the following:

'15. Adequacy of budget, fees and staffing. The budget submitted by the board to the Commissioner of Professional and Financial Regulation shall be sufficient, if approved, to provide for adequate legal and investigative personnel on the board's staff and that of the Attorney General to assure that professional liability complaints described in Title 24, section 2607, and complaints regarding any section of this chapter can be resolved in a timely fashion. Within the limit set by section 3279, the board shall charge sufficient registration fees to finance this budget provision. The board shall submit legislation to request an increase in these fees should they prove inadequate to the provisions of this subsection.

Within the limit of funds provided to it by the board, the Department of the Attorney General shall make available to the board sufficient legal and investigative staff to enable all consumer complaints mentioned in this subsection to be resolved in a timely fashion.'

Further amend the bill by striking out all of section 5.

Further amend the bill by striking out all of section 6 and inserting in its place the following:

'Sec. 6. 32 MRSA §3299 is enacted to read:

§3299. Promulgation of complaint procedures

By June 1, 1990, the Board of Registration in Medicine shall prepare materials that will indicate to patients their rights in dealing with medical doctors and how a complaint may be filed with the board if these rights are violated. By April 1, 1990, the board shall submit these materials and the plan for their dissemination for review to the joint standing committee of the Legislature having jurisdiction over business legislation prior to their initial printing.'

1 Further amend the bill by striking out all of section 7.

3 Further amend the bill by inserting after section 7 the
 following:

5 'Sec. 8. Allocation. The following funds are allocated from
 7 Other Special Revenue funds to carry out the purposes of this Act.

9 1989-90 1990-91

11 **ATTORNEY GENERAL, DEPARTMENT OF**

13 **Administration - Attorney General**

15 Positions	(3.0)	(3.0)
16 Personal Services	\$73,119	\$106,058
17 All Other	7,500	10,000
18 Capital Expenditures	16,152	

19 Provides funds for one Staff
 21 Attorney and 2 Special
 22 Investigators to investigate
 23 complaints brought to the
 24 Board of Registration in
 25 Medicine.

27 DEPARTMENT OF ATTORNEY GENERAL		
28 TOTAL	\$96,771	\$116,058

29 **PROFESSIONAL AND FINANCIAL**
 31 **REGULATION, DEPARTMENT OF**

33 **Board of Registration in Medicine**

35 Personal Services	\$1,250	\$1,250
36 All Other	100,000	125,000
37		
38 TOTAL	\$101,250	\$126,250

39 Provides funding for an
 41 additional board member and
 42 the costs of the Department
 43 of Attorney General incurred
 44 during the investigation of
 45 complaints brought to the
 46 board.

47

1 **Board of Osteopathic Examination
and Registration**

3	Personal Services	\$220	\$330
5	All Other	200	300
7	TOTAL	<u>\$420</u>	<u>\$630</u>

9 Provides funds for the per
11 diem and expenses of the
additional board member.

13 **DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION**

15	TOTAL	<u>\$101,670</u>	<u>\$126,880</u>
----	--------------	------------------	------------------

17	TOTAL ALLOCATIONS	<u>\$198,441</u>	<u>\$242,938'</u>
----	--------------------------	------------------	-------------------

19 Further amend the bill by renumbering the sections to read
21 consecutively.

23 Further amend the bill by inserting before the statement of
fact the following:

25 **'FISCAL NOTE**

27 This bill will have the following effect on revenues:

29		1989-90	1990-91
31	Other Special Revenue Funds	\$96,771	\$116,058

33 The Department of Attorney General will receive additional
35 dedicated revenue from the Board of Registration in Medicine to
37 pay for the costs incurred during the investigation of complaints
brought to the board.

39 The Board of Registration in Medicine and the Board of
41 Osteopathic Examination and Registration will not need to
43 increase current fee schedules to meet the additional costs
resulting from this legislation in the 1990-91 biennium.
However, future fee increases may be required.'

45 **STATEMENT OF FACT**

47 This amendment accomplishes the following:

- 49 1. Changes the title to indicate a shift in emphasis and a
51 broadening of the subject area;

1

2. Requires that hospitals, or similar institutions, and professional societies report to the appropriate board when any health practitioner has been disciplined or has resigned to avoid discipline;

3

5

3. Requires that insurers report to the Bureau of Insurance when they cancel or refuse to renew insurance for a medical doctor or a doctor of osteopathy;

7

9

4. Changes the number of public members to be added to the Board of Registration in Medicine from 3 to 1 and adds one public member to the Board of Osteopathic Examination and Registration;

11

13

5. Eliminates the following from the information that the Board of Registration in Medicine is to report to the Legislature:

15

17

A. The types of complaints and the average time for resolution;

19

21

B. The number and types of administrative procedures held; and

23

25

C. The reasons for the disciplinary actions taken.

27

The same information that is required of the board is also to be required of the osteopathic board;

29

31

6. Eliminates the specific investigative staffing requirement by the Attorney General and, instead, specifies that the Attorney General shall provide sufficient legal and investigative staff to respond to consumer complaints in a timely fashion;

33

35

7. Strikes out the section calling for an increase in the allowed limit of registration fees for medical doctors from \$250 to \$500 biannually, and raises the osteopathic registration limit from \$125 to \$200 annually;

37

39

41

8. Eliminates the requirement that medical doctors utilize the materials concerning complaint procedures to be provided to them by the board. The osteopathic board is required to prepare the same type of informative materials as the bill requires of the Board of Registration in Medicine; and

43

45

47

9. Requires that the osteopathic board deal with complaints in a timely fashion, following a similar provision in the bill for the Board of Registration in Medicine.