

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2023

S.P. 782

In Senate, December 21, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on December 21, 1989. Referred to the Committee on Human Resources and 1,600 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GAUVREAU of Androscoggin.

Cosponsored by Representative RICHARDS of Hampden, Representative CLARK of Brunswick and Representative FARNSWORTH of Hallowell.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Establish a Five-year Medical Liability Demonstration Project.



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

24 MRSA c. 21, sub-c. IX is enacted to read.

SUBCHAPTER IX

MEDICAL LIABILITY DEMONSTRATION PROJECT

§2981. Medical liability demonstration project

The Bureau of Insurance and the Board of Registration in Medicine shall, by January 1, 1991, establish a medical liability demonstration project.

1. Medical specialty advisory committees. The Board of Registration in Medicine shall establish medical specialty advisory committees in the medical specialty areas of anesthesiology, emergency medicine and cardiology. The board shall appoint leading practitioners in those fields to serve as members of the advisory committees.

2. Practice parameters; risk management protocols. Each medical specialty advisory committee shall develop practice parameters and risk management protocols for its specific field of medicine. The practice parameters must define appropriate clinical indications and methods of treatment. The risk management protocols must establish standards of practice designed to avoid malpractice suits and to make more defensible those lawsuits that are filed. These parameters and protocols must be consistent with appropriate levels of quality and are subject to review and approval by the Board of Registration in Medicine.

3. Additional specialty areas. Specialty areas, in addition to anesthesiology, emergency medicine and cardiology may be added to the demonstration project, at the discretion of the Bureau of Insurance and the Board of Registration in Medicine. If additional specialty areas are included in the project, the board must establish additional medical specialty advisory committees, which must develop practice parameters and risk management protocols pursuant to subsection 2.

4. Physician immunity from liability. Any physician practicing in a medical specialty area for which practice parameters and risk management protocols have been established pursuant to subsection 2 is immune from liability for the results of providing those medical services, if the medical services are rendered in accordance with the applicable practice parameters and risk management protocols. Hospitals in which the practice took place are immune from liability if the hospital procedures and those of its employees are consistent with the applicable practice parameters and risk management protocols.

2 5. Physician participation. All physicians practicing in
3 medical specialty areas for which practice parameters and risk
4 management protocols have been developed pursuant to subsection 2
5 shall practice according to those parameters and protocols.

6 6. Deviations. Any deviations from the applicable practice
7 parameters and risk management protocols must be documented by
8 the practicing physician. Documented deviations do not
9 constitute negligence solely as a result of the deviation.

10 7. Evidence; inadmissibility. Unless independently
11 developed from a source other than the demonstration project, the
12 practice parameters and risk management protocols are not
13 admissible in evidence in a lawsuit against any physician who is
14 not a participant in the demonstration project, or against any
15 physician participating in the project who is defending against a
16 lawsuit initiated prior to January 1, 1991.

17 8. Report. The Bureau of Insurance and the Board of
18 Registration in Medicine shall report the results of the project
19 to the Legislature by December 1, 1995. The report will
20 specifically address the following issues:

21 A. The number of claims brought against physicians in the
22 project alleging malpractice as a result of incidences
23 occurring after January 1, 1991;

24 B. The results of any claims described in paragraph A,
25 including defense costs and indemnity payments as a result
26 of settlement or verdict;

27 C. The impact of the project on the medical liability
28 premiums of those physicians in the project; and

29 D. Any identifiable impact of the project on the cost of
30 the practice of defensive medicine.

31 STATEMENT OF FACT

32 The purpose of this bill is to reduce the costs that result
33 from the practice of "defensive medicine." This bill authorizes
34 the Bureau of Insurance and the Board of Registration in Medicine
35 to establish a 5-year medical liability demonstration project
36 within the medical specialty areas of anesthesiology, emergency
37 medicine and cardiology. As part of the project, the board will
38 establish medical specialty advisory committees, which will
39 develop standards of practice in each of the 3 subject
40 specialties. As long as physicians practicing in one of those
41 areas act in accordance with the established standards, the

2 physicians and the hospitals in which they practice will be
immune from liability. The results of the project will be
4 reported to the Legislature in 1995.