

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 60, L.D. 88, Bill, "An Act Concerning Consent to Dental Care"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'24 MRSA §2905, sub-§1, as amended by PL 1989, c. 74, §2, is further amended to read:

1. Disallowance of recovery on grounds of lack of informed consent. No recovery may be allowed against any physician, podiatrist, dentist or any health care provider upon the grounds that the 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 when:

A. The action of the physician, podiatrist or dentist in obtaining the consent of the patient or other person authorized to 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

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

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2 C. A reasonable person, under all surrounding
circumstances, would have undergone such treatment or
4 procedure had that person been advised by the physician,
podiatrist or dentist in accordance with paragraphs A and B
6 or this paragraph.

8 For purposes of this subsection, the physician, podiatrist or
dentist may rely upon a reasonable representation that the person
10 giving consent for the patient is authorized to give consent
unless the physician, podiatrist or dentist has notice to the
12 contrary.'

14
16 **STATEMENT OF FACT**

18 The amendment replaces the bill. It allows any physician,
podiatrist or dentist to rely on a reasonable representation by
20 the person giving consent for the patient that that person is
authorized to give such consent, unless the physician, podiatrist
22 or dentist has information to the contrary. This amendment helps
professionals providing health care services to minors in divorce
and other situations in which one parent or guardian may have
24 authority to consent for the child but the other does not. This
amendment ensures there is no need for the physician, podiatrist
26 or dentist to confirm that a parent or guardian is authorized to
consent for the minor, unless put on notice to the contrary.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
(4/23/91) (Filing No. H-170)