

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 697

H.P. 503

House of Representatives, February 20, 1991

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

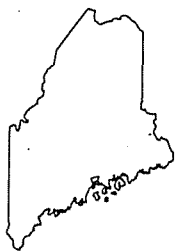
Presented by Representative LIPMAN of Augusta.

Cosponsored by Representative DONNELLY of Presque Isle, Representative PARADIS of Augusta and Senator FOSTER of Hancock.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Provide an Opportunity for Complainants to be Heard before
the Board of Registration in Medicine.**



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

2
4 32 MRSA §3282-A, sub-§1, as enacted by PL 1983, c. 378, §53
is amended to read:

6 1. **Disciplinary proceedings and sanctions.** The board shall
investigate a complaint, on its own motion or upon receipt of a
8 written complaint filed with the board, regarding noncompliance
with or violation of this chapter or of any rules adopted by the
10 board.

12 The board shall notify the licensee of the content of a complaint
filed against the licensee as soon as possible, but in no event
14 later than within 60 days of receipt of this information. The
licensee shall respond within 30 days. If the licensee's
16 response to the complaint satisfies the board that the complaint
does not merit further investigation or action, the matter may be
18 dismissed, with notice of the dismissal to the complainant, if
any.

20 If, in the opinion of the board, the factual basis of the
22 complaint is or may be true, and it is of sufficient gravity to
warrant further action, the board may request an informal
24 conference with the licensee. The board shall provide the
licensee with adequate notice of the conference and of the issues
26 to be discussed. The conference shall must be conducted in
executive session of the board, unless otherwise requested by the
28 licensee. Statements made at the conference may not be introduced
at a subsequent formal hearing unless all parties consent.

30 Before the board dismisses a complaint or decides to take action,
32 it shall give the complainant an opportunity for an informal
conference with the board. The board shall conduct this
34 conference under the same conditions as those specified for
licensee conferences in this section.

36 If the board finds that the factual basis of the complaint is
38 true and is of sufficient gravity to warrant further action, it
may take any of the following actions it deems determines
40 appropriate:

42 A. With the consent of the licensee, enter into a consent
agreement which fixes the period and terms of probation best
44 adapted to protect the public health and safety and to
rehabilitate or educate the licensee. A consent agreement
46 may be used to terminate a complaint investigation, if
entered into by the board, the licensee and the Attorney
48 General's office;

50 B. In consideration for acceptance of a voluntary surrender
of the license, negotiate stipulations, including terms and

2 conditions for reinstatement, which ensure protection of the
public health and safety and which serve to rehabilitate or
4 educate the licensee. These stipulations shall may be set
forth only in a consent agreement signed by the board, the
licensee and the Attorney General's office;

6
8 C. If the board concludes that modification or nonrenewal
of the license might be in order, the board shall hold an
adjudicatory hearing in accordance with the provisions of
10 the Maine Administrative Procedure Act, Title 5, chapter
375, subchapter IV; or

12
14 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
16 the Administrative Court in accordance with Title 4, chapter
25.

18
20 **STATEMENT OF FACT**

22 Currently, without giving the complainant an opportunity to
be heard, the Board of Registration in Medicine may dismiss a
24 complaint or enter into a consent agreement or stipulations with
the accused licensee. The licensee has the right to a conference
before the board decides upon any action.

26
28 This bill requires that a complainant be given the
opportunity to appear before the board prior to the board
deciding what action to take on the complaint.
30