

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

No. 804

S.P. 267

In Senate, March 9, 1993

**An Act to Clarify Reporting Requirements for Medical Malpractice  
Carriers to the Bureau of Insurance.**

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Reference to the Committee on Banking and Insurance suggested and ordered printed.

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

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator SUMMERS of Cumberland.

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

2  
4       Sec. 1. 24 MRSA §2978, sub-§1, ¶¶A and C, as enacted by PL 1989, c. 931, §4, are amended to read:

6       A. A report of each claim made alleging malpractice during  
8       the 5-year period ending December 31, 1991, involving any  
10       physician practicing in a medical specialty area described  
12       in section 2972. Each report must include the name of the  
14       insured, policy number, classification of risk, medical  
16       specialty, date of claim and the results of the claim,  
18       including defense costs and indemnity payments as a result  
20       of settlement or verdict, as well as any awards paid in  
22       excess of policy limits. For any claim still open, the  
24       report must include the amount of any funds allocated as  
      reserve or paid out. For any claims made during the 5-year  
      period ending December 31, 1991 and still open as of  
      December 31, 1996, the insurance company shall make the  
      report no later than June 1, 1997. Any claims open as of  
      December 31, 1991, but that close prior to December 31, 1996  
      must be reported on the next report date required in  
      paragraph C. The insurance company shall annually report on  
      any claims that have remained open;

26       C. A report of each claim brought made against any  
28       physician practicing in a medical specialty area described  
30       in section 2972, alleging malpractice as a result of  
32       incidents occurring on or after January 1, 1992 and before  
34       January 1, 1997, that includes, but is not limited to, the  
36       name of the insured, policy number, classification of risk,  
38       medical specialty, date of claim and the results of each  
40       claim, including defense costs and indemnity payments as a  
42       result of settlement or verdict, any awards or amounts paid  
      in excess of policy limits and any finding, if made, of  
      whether the physician's practice was consistent with the  
      parameters and protocols developed and adopted under section  
      2973. These reports must be provided not less than  
      semiannually according to a schedule established by the  
      Bureau of Insurance; except that reports on open claims must  
      be made not later than June 1, 1997. At the discretion of  
      the Bureau of Insurance, reports must be provided until all  
      claims are closed; and

44       Sec. 2. 24 MRSA §2978, sub-§2, ¶A, as enacted by PL 1989, c.  
46       931, §4, is amended to read:

48       A. The Bureau of Insurance shall report:

50             (1) The number of claims brought against physicians in  
52             the project alleging malpractice as a result of  
              incidents occurring on or after January 1, 1992;

- 2 (2) The results of any closed claims described in this  
section, including defense costs and indemnity payments  
4 as a result of settlement or verdict;
- 6 (3) The status of all open claims described in this  
section, including defense costs, indemnity payments  
8 and any amounts held in reserve in the aggregate by  
medical specialty area as established under the medical  
specialty advisory committees' rule-making authority  
10 set forth in section 2972; and
- 12 (4) The effect of the project on the medical liability  
14 claims experience and premiums of those physicians in  
the project.

16 Sec. 3. 22 MRSA §2978, sub-§4, as enacted by PL 1989, c. 931,  
§4, is amended to read:

18 4. **Confidentiality.** Reports made to the superintendent and  
20 report records kept by the superintendent are not subject to  
discovery and are not admissible in any trial, civil or criminal,  
22 other than proceedings brought before or by the Board of  
Registration in Medicine or the Board of Osteopathic Examination  
24 and Registration. The superintendent shall maintain the reports  
filed in accordance with this section and all information derived  
26 from the reports that identifies or permits identification of the  
insured or the incident for which a claim was made as strictly  
28 confidential records. Information derived from reports filed in  
accordance with this section that does not identify or permit  
30 identification of any insured or incident for which a claim was  
made may be released by the superintendent or otherwise made  
32 available to the public. Open claim reserves reported by  
insurers under subsection 1 are not subject to discovery and are  
34 not admissible in any civil or criminal trial.

36 **STATEMENT OF FACT**

38 This bill clarifies certain reporting requirements for  
40 medical malpractice carriers to the Bureau of Insurance.

42 The bill clarifies that reports by an insurer for claims  
alleging malpractice are of claims made for each of the 5-year  
44 periods and not reports based on claims brought. This ensures  
that the reports contain information consistent with medical  
46 malpractice policies currently being written in Maine.

48 The bill clarifies that information on individual open claim  
reserves is confidential and protected from discovery.  
50

2 The bill also requires that reports by insurance companies  
3 on open and closed claims are due no later than June 1, 1997,  
4 shortly after the end of the medical liability demonstration  
5 project authorized by the Maine Revised Statutes, Title 24,  
6 section 2971.