

# MAINE STATE LEGISLATURE

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Reported by: Senator Conley of Cumberland

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STATE OF MAINE  
SENATE  
116TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 602, L.D. 1700, Bill, "An Act to Maintain Confidentiality of Certain Information Received by the Board of Counseling Professionals Licensure and the State Board of Substance Abuse Counselors"

Amend the bill by striking out the title and substituting the following:

'An Act to Maintain Confidentiality of Certain Information Received by Licensing Boards and Commissions'

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

'Sec. 1. 10 MRSA §8003-B, sub-§2-A is enacted to read:

2-A. Certain client records confidential. Notwithstanding subsections 1 and 2, a record provided to a licensing board or commission within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

COMMITTEE AMENDMENT

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2 (2) If the client or patient wishes, execution of the  
3 release allows disclosure to only the person or persons  
4 clearly identified in the release. The release must  
5 require the person or persons identified in the release  
6 not to make a disclosure to another person;

7 B. The disclosure is necessary under Title 22, chapter 857  
8 concerning personnel and licensure actions;

10 C. The disclosure is necessary under Title 22, section 3474  
11 concerning reports of suspected adult abuse or exploitation;

12 D. The disclosure is necessary under Title 22, section 4011  
13 concerning reports of suspected child abuse or neglect; or

14 E. The disclosure is necessary under Title 22, section 7703  
15 concerning reports of suspected child or adult abuse or  
16 neglect.

17 A release executed by a client or patient does not operate to  
18 disclose a record otherwise made confidential by law.

19 This subsection does not prevent disclosure of records pursuant  
20 to an order of a court of competent jurisdiction upon good cause  
21 shown.

22 **Sec. 2. 10 MRSA §8003-B, sub-§4, as enacted by PL 1989, c.**  
23 **173, is amended to read:**

24 **4. Violation.** A person who knowingly or intentionally  
25 makes a disclosure in violation of this section or who knowingly  
26 violates a condition of a release pursuant to subsection 2-A  
27 commits a civil violation for which a forfeiture not to exceed  
28 \$1,000 may be adjudged.

36 **FISCAL NOTE**

37 Many of the professional regulatory boards within the  
38 Department of Professional and Financial Regulation will incur  
39 some minor additional costs to ensure the confidentiality of  
40 certain records. These costs can be absorbed within the boards'  
41 existing budgeted resources.

42 The additional workload and administrative costs associated  
43 with the minimal number of new cases filed in the court system  
44 can be absorbed within the budgeted resources of the Judicial  
45 Department. The collection of additional fines may increase  
46 General Fund revenue by minor amounts.'

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**STATEMENT OF FACT**

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6 This amendment revises the title of the bill to correctly  
8 indicate that the provisions apply to all licensing boards and  
10 commissions within or affiliated with the Department of  
12 Professional and Financial Regulation. This amendment replaces  
14 the bill to cover all the licensing boards and commissions when  
16 there is an investigation of a licensee in a medical, mental  
18 health, substance abuse, psychological or other health field. It  
20 also provides additional situations in which the records,  
22 otherwise confidential, may be released to someone other than the  
24 licensing boards listed. If there is a situation in which child  
or adult abuse, neglect or exploitation is suspected, persons  
mandated by law to report to the Department of Human Services  
would still do so. In addition, disclosure is allowed under the  
narrow constraints listed in the Maine Revised Statutes, Title  
22, chapter 857 on personnel and licensure actions undertaken by  
the Department of Human Services. Those records would remain  
confidential within the Department of Human Services for those  
purposes. The amendment specifically states that the new  
language is not intended to prohibit disclosure under a proper  
court order.

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The amendment provides that violation of a condition of the  
client's or patient's release is a civil violation. It also adds  
a fiscal note to the bill.