

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 526

H.P. 391

House of Representatives, February 14, 1995

**An Act to Amend the Statute of Limitations for Health Care Providers  
and Health Care Practitioners to Include a Discovery Rule.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TREAT of Gardiner.  
Cosponsored by Senator RAND of Cumberland and  
Representatives: ADAMS of Portland, GWADOSKY of Fairfield, JONES of Bar Harbor,  
LaFOUNTAIN of Biddeford, MORRISON of Bangor, SHIAH of Bowdoinham, VOLENIK of  
Sedgwick.

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

4 **Sec. 1. 24 MRSA §2902**, as repealed and replaced by PL 1985,  
6 c. 804, §§13 and 22, is repealed and the following enacted in its  
8 place:

10 **§2902. Statute of limitations for health care providers and**  
12 **health care practitioners**

14 An action for professional negligence must be commenced  
16 within 3 years after the cause of action accrues. For the  
18 purposes of this section, a cause of action accrues when the  
20 plaintiff discovers, or in the exercise of reasonable diligence  
22 should have discovered, the injury and its causal relationship to  
24 the act of professional negligence of which the plaintiff  
26 complains. Notwithstanding the provisions of Title 14, section  
28 853 relating to minority, actions by a minor for professional  
30 negligence must be commenced within 6 years after the cause of  
32 action accrues or within 3 years after the minor reaches the age  
of majority, whichever first occurs.

24 **STATEMENT OF FACT**

26 This bill enacts a discovery rule with respect to the  
28 statute of limitations relating to health care providers and  
30 health care practitioners. The bill recognizes the unfairness of  
32 allowing a claim to expire during a period of time when the  
plaintiff has neither discovered, nor in the exercise of  
reasonable diligence should have discovered, the injury resulting  
from the professional negligence.