

MAINE STATE LEGISLATURE

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BUSINESS AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 394, L.D. 539, Bill, "An Act to Clarify the Laws Regarding the Board of Licensure in Medicine and Ensure That Physician Discipline Is Reported to the Appropriate Licensing Board"

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

Sec. 1. 5 MRSA §9057, sub-§6, as amended by PL 1989, c. 175, §1, is further amended to read:

6. Confidential information. Information may be disclosed which that is confidential pursuant to Title 22, chapters 958-A and 1071 and sections 7703 and 1828; Title 24, section 2506; and Title 34-A, except for information, the disclosure of which is absolutely prohibited under Title 34-A, section 3003. Disclosure may be only for the determination of issues involving unemployment compensation proceedings relating to a state employee, state agency personnel actions and professional or occupational board licensure, certification or registration.

A. For the purpose of this subsection, "hearing officer" means presiding officer, judge, board chairman, arbitrator or any other person deemed considered responsible for conducting a proceeding or hearing subject to this subsection. In the case of the Civil Service Appeals Board, the presiding officer shall--be is the entire board. "Employees of the agency" means employees of a state agency or department or members, agents or employees of a board who are directly related to and whose official duties involve the matter at issue.

COMMITTEE AMENDMENT

B. The confidential information disclosed pursuant to this subsection is subject to the following limitations:

(1) The hearing officer determines that introduction of the confidential information is necessary for the determination of an issue before the hearing officer;

(2) During the introduction of confidential information, the proceeding is open only to the hearing officer, employees of the agency, parties, parties' representatives, counsel of record and the witness testifying regarding the information, and access to the information is limited to these people. Disclosure is limited to information directly related to the matter at issue;

(3) Witnesses shall be are sequestered during the introduction of confidential information, except when offering testimony at the proceeding;

(4) The names or identities of reporters of confidential information or of other persons shall may not be disclosed, except when disclosure is deemed determined necessary and relevant by the hearing officer; and

(5) After hearing, the confidential information is sealed within the record and shall may not be further disclosed, except upon order of court.

Sec. 2. 24 MRSA §2502, sub-§§1-B and 2-A are enacted to read:

1-B. Carrier. "Carrier" has the same meaning as in Title 24-A, chapter 56-A.

2-A. Managed care plan. "Managed care plan" has the same meaning as in Title 24-A, chapter 56-A.

Sec. 3. 24 MRSA §2506, as amended by PL 1989, c. 462, §1, is further amended to read:

§2506. Provider and carrier reports

A health care provider shall, within 60 days, report in writing to the disciplined practitioner's board or authority the name of any licensed, certified or registered employee or person privileged by the provider whose employment or privileges have been revoked, suspended, limited or terminated or who resigned

2 while under investigation or to avoid investigation for reasons
3 related to clinical competence or unprofessional conduct,
4 together with pertinent information relating to that action.
5 Pertinent information includes a description of the adverse
6 action, the date, the location and a description of the event or
7 events giving rise to the adverse action. Upon request, the
8 following information must be released to the board or
9 authority: medical records relating to the event or events;
10 written statements signed or prepared by any witness or
11 complainant to the event; and related correspondence between the
12 practitioner and the provider. The report shall must include
13 situations in which employment or privileges have been revoked,
14 suspended, limited or otherwise adversely affected by action of
15 the health care practitioner while the health care practitioner
16 was the subject of disciplinary proceedings, and it also shall
17 must include situations where employment or privileges have been
18 revoked, suspended, limited or otherwise adversely affected by
19 act of the health care practitioner in return for the health care
20 provider terminating such proceeding. Any reversal, modification
21 or change of action reported pursuant to this section shall must
22 be reported immediately to the practitioner's board or authority,
23 together with a brief statement of the reasons for that reversal,
24 modification or change. The failure of any such health care
25 provider to report as required is a civil violation for which a
26 fine of not more than \$1,000 may be adjudged.

27 Carriers providing managed care plans are subject to the
28 reporting requirements of this section when they take adverse
29 actions against a practitioner's credentials or employment for
30 reasons related to clinical competence or unprofessional conduct
31 that may adversely affect the health or welfare of the patient.

32 **Sec. 4. 24 MRSA §2511, as amended by PL 1993, c. 600, Pt. A,**
33 **§19, is further amended to read:**

34 Any person acting without malice, any physician, podiatrist,
35 health care provider, or professional society or, any member of a
36 professional competence committee, or professional review
37 committee or, any board or appropriate authority is and any
38 entity required to report under this chapter are immune from
39 civil liability:

40 **Sec. 5. 32 MRSA §2954-B, sub-§1, as amended by PL 1993, c.**
41 **600, Pt. A, §185, is further amended to read:**

42 **1. License required.** A physician assistant may not practice
43 under the supervision of an osteopathic physician until the
44 physician assistant has applied for and obtained a license issued
45 by the Board of Osteopathic Licensure, which must be renewed
46 annually biennially.

2 **Sec. 6. 32 MRSA §2599**, as amended by PL 1993, c. 600, Pt. A,
3 §192, is further amended by adding at the end a new paragraph to
4 read:

6 Provision of information protected by this section to the
7 board pursuant to Title 24, section 2506 does not waive or
8 otherwise affect the confidentiality of the records or the
9 exemption from discovery provided by this section for any other
10 purpose.

12 **Sec. 7. 32 MRSA §3270-B**, as amended by PL 1993, c. 600, Pt.
13 A, §206, is further amended by repealing the headnote and
14 replacing it with the following:

16 **§3270-B. License and regulation**

18 **Sec. 8. 32 MRSA §3270-B, first ¶**, as amended by PL 1993, c.
19 600, Pt. A, §206, is further amended to read:

20 A physician assistant is not permitted to practice until the
21 physician assistant has applied for and obtained a certificate of
22 qualification license issued by the Board of Licensure in
23 Medicine, which must be renewed biennially, and a certificate of
24 registration, ~~which must be renewed biannually~~. All applications
25 for certificate of qualification registration must be accompanied
26 by an application by the proposed supervisory physician, ~~which~~
27 application that must contain a statement that that physician is
28 responsible for all medical activities of the physician
29 assistant. The Board of Licensure in Medicine is authorized to
30 adopt rules regarding the training and certification licensure of
31 physician assistants and the agency relationship between the
32 physician assistant and the supervising physician. Those rules
33 may pertain, but are not limited, to the following matters:

36 **Sec. 9. 32 MRSA §3270-B, sub-§1**, as enacted by PL 1975, c.
37 680, §1, is amended to read:

38 1. **Application information.** The information to be contained
39 in the application for a certificate of qualification
40 registration;

42 **Sec. 10. 32 MRSA §3270-B, sub-§11**, as amended by PL 1993, c.
43 600, Pt. A, §206, is further amended to read:

46 11. **Fees for biennial license renewal.** Fees for the
47 biennial registration license renewal of physician assistants in
48 an amount not to exceed \$100.

2 This amendment amends the Maine Health Security Act to
3 include health maintenance organizations, preferred provider
4 arrangements and similar organizations as entities that must
5 report practitioner discipline related to clinical competence or
6 unprofessional conduct and to apply the immunities provided by
7 the Maine Health Security Act to these organizations. This
8 amendment clarifies when a report pursuant to the Maine Health
9 Security Act must be made to the Board of Licensure in Medicine
10 and the Board of Osteopathic Licensure and what information
11 related to the report must be provided to the boards.

12 This amendment changes the licensure of the physician
13 assistants under the supervision of the Board of Osteopathic
14 Licensure from annual to biennial.

15 This amendment clarifies that the exemption from discovery
16 does not apply to information that must be reported to the boards
17 pursuant to Title 24, section 2506. This amendment applies only
18 to the Board of Licensure in Medicine and the Board of
19 Osteopathic Licensure and the materials protected by Title 32,
20 section 2599 and section 3296 remain confidential for all other
21 purposes.

22 This amendment clarifies that physician assistants are
23 licensed to practice and are registered with the Board of
24 Licensure in Medicine under a supervisory physician. This
25 amendment also clarifies the board's authority to require
26 licensees to submit to mental or physical examination.

27 This amendment also adds a fiscal note to the bill.