

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1728

S.P. 571

In Senate, April 1, 1997

An Act to Promote Professional Competence and Improve Patient Care.

Reference to the Committee on Health and Human Services 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 GOLDTHWAIT of Hancock.

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

2
4 **Sec. 1. 24 MRSA §2502, sub-§2-A** is enacted to read:

6 **2-A. Health care organization.** "Health care organization"
8 means a health care provider, an entity that contracts with
10 health care practitioners or other health care providers to
12 provide health care services or a professional corporation
14 comprised of health care professionals. Such an organization
16 must be licensed or otherwise authorized by the laws of this
18 State and operate by written bylaws, policies and procedures
20 approved by the organization's governing body. Health care
 organizations include, but are not limited to, physician-hospital
 organizations, nonprofit hospitals and medical service
 organizations authorized pursuant to Title 24, chapter 19 and,
 pursuant to Title 24-A, preferred provider organizations licensed
 pursuant to chapter 32, health maintenance organizations licensed
 pursuant to chapter 56 and hospitals, clinics, nursing homes,
 insurance carriers and long-term care facilities.

22 **Sec. 2. 24 MRSA §2502, sub-§4**, as enacted by PL 1977, c. 492,
 §3, is amended to read:

24 **4. Professional competence committee.** "Professional
26 competence committee" means a committee of members of a
28 professional society ~~or other~~, of an organization of physicians
30 or of a health care organization formed pursuant to state and
32 federal law and that is authorized to evaluate medical and health
34 care service services, or a committee of licensed professionals
36 authorized or privileged to practice in or for any health care
38 facility, ~~provided the medical organization. The professional~~
40 society ~~or other~~, health care organization or the licensed
 medical staff ~~or of the health care facility~~ operates
 organization shall operate a professional competence committee
 pursuant to written bylaws governing documents that have been
 approved by the governing body of such that society, or
 organization ~~or facility~~ and must be authorized under such
 documents to conduct evaluations of medical and health care
 services.

42 **Sec. 3. 24 MRSA §2502, sub-§8** is enacted to read:

44 **8. Records.** "Records" means all written or oral
46 communications by a person provided to a professional competence
48 committee, professional review committee or committee of the
50 governing board of a health care organization, that arise from
 the activities of the organization's professional competence
 committee. Such records include, but are not limited to, the
 complaint, the response, correspondence related to the complaint
 and response, recordings or transcripts of proceedings, minutes,

2 formal recommendations, decisions, exhibits and other similar
3 items or documents typically constituting the records of
4 administrative proceedings.

5 **Sec. 4. 24 MRSA §2503**, as enacted by PL 1977, c. 492, §3, is
6 amended to read:

7 **§2503. Duties**

8 The governing body of every licensed--hospital health care
9 organization shall assure ensure that:

10 **1. Organization of medical staff.** Its medical staff is
11 organized pursuant to written bylaws that have been approved by
12 the governing body;

13 **2. Privileges.** ~~Provider-privileges~~ Privileges extended or
14 subsequently renewed to any physician are in accordance with
15 those recommended by the medical staff as being consistent with
16 that physician's training, experience and professional competence;

17 **3. Program for identification and prevention of medical**
18 **injury.** It has a program for the identification and prevention of
19 medical injury ~~which--shall--include~~ that includes at least the
20 following:

21 A. One or more professional competence committees with
22 responsibility effectively to review the professional
23 services rendered in the facility health care organization
24 for the purpose of ~~insuring~~ ensuring quality of medical care
25 of patients therein. ~~Such~~ That responsibility shall must
26 include a review of the quality and necessity of medical
27 care provided and the preventability of medical
28 complications and deaths;

29 B. A grievance or complaint mechanism designed to process
30 and resolve as promptly and effectively as possible
31 grievances by patients or their representatives related to
32 incidents, billing, inadequacies in treatment and other
33 factors known to influence malpractice claims and suits;

34 C. A system for the continuous collection of data with
35 respect to the ~~provider's~~ health care organization's
36 experience with negative health care outcomes and incidents
37 injurious to patients, whether or not they give rise to
38 claims, patient grievances, ~~claims,~~ suits, professional
39 liability premiums, settlements, awards, allocated and
40 administrative costs of claims handling, costs of patient
41 injury prevention and safety engineering activities, and
42 other relevant statistics and information; and
43

2 D. Education programs for the provider's health care
3 organization's staff personnel engaged in patient care
4 activities dealing with patient safety, medical injury
5 prevention, the legal aspects of patient care, problems of
6 communication and rapport with patients and other relevant
7 factors known to influence malpractice claims and suits; and

8
9 **4. External professional competence committee.** Where When
10 the nature, size or location of the health care provider
11 organization makes it advisable, the provider organization may,
12 upon recommendation of its medical staff and approval by its
13 governing body, utilize in place of an internal professional
14 competence committee the services of an external professional
15 competence committee or one formed jointly by 2 or more providers
16 health care organizations.

17 **Sec. 5. 24 MRSA §2503-A** is enacted to read:

18
19 **§2503-A. Process**

20
21 **1. Adverse evaluation.** Under its governing documents or
22 its organizational policies and procedures, a health care
23 organization shall provide that a physician who is the subject of
24 an adverse evaluation concerning professional competence is
25 entitled to the following:

26
27 **A.** Notice of the specific complaints and issues forming the
28 basis for an adverse evaluation;

29
30 **B.** Access to all patient records and complaints forming the
31 basis for an adverse evaluation;

32
33 **C.** A hearing before a committee comprised of practitioners
34 licensed at the same level as the practitioner under review;

35
36 **D.** Representation by counsel to confront witnesses and to
37 present evidence or witnesses relevant to the complaints
38 that form the basis for the adverse evaluation; and

39
40 **E.** A written decision identifying the reasons for the
41 adverse evaluation.

42
43 **2. Final action.** A competence committee that is required
44 to report its final actions to the Board of Licensure in Medicine
45 or the Board of Osteopathic Licensure is not otherwise relieved
46 of that obligation by any provision of this section.

47
48 **Sec. 6. 24 MRSA §2506**, as amended by PL 1989, c. 462, §1, is
49 further amended to read:
50

2 **§2506. Health care organization reports**

4 A health care ~~provider~~ organization shall, within 60 days,
6 report in writing to the disciplined practitioner's board or
8 authority the name of any licensed, certified or registered
10 employee or person privileged by the ~~provider~~ organization whose
12 employment or privileges have been revoked, suspended, limited or
14 terminated, together with pertinent information relating to that
16 action. The report shall ~~must~~ include situations in which
18 employment or privileges have been revoked, suspended, limited or
20 otherwise adversely affected by action of the health care
22 practitioner while the health care practitioner was the subject
24 of disciplinary proceedings, and it also shall ~~must~~ include
26 situations where in which employment or privileges have been
revoked, suspended, limited or otherwise adversely affected by an
act of the health care practitioner in return for the health care
~~provider~~ organization's terminating ~~sueh---preceeding~~ the
proceedings. Any reversal, modification or change of action
reported pursuant to this section shall ~~must~~ be reported
immediately to the practitioner's board or authority, together
with a brief statement of the reasons for that reversal,
modification or change. The failure of ~~any--sueh~~ a health care
~~provider~~ organization to report as required is a civil violation
for which a fine of not more than \$1,000 may be adjudged.

28 **Sec. 7. 24 MRSA §2508**, as enacted by PL 1977, c. 492, §3, is
amended to read:

30 **§2508. Effect of filing**

32 The filing of a report with the board pursuant to this
34 chapter, investigation by the board or any disposition by the
36 board shall does not, in and of itself, preclude any action by a
38 ~~hospital---or---ether~~ health care ~~faeility~~ organization or
professional society comprised primarily of physicians to
suspend, restrict or revoke the privileges or membership of the
physician.

40 **Sec. 8. 24 MRSA §2510**, as amended by PL 1993, c. 600, Pt. B,
42 §§21 and 22, is further amended to read:

44 **§2510. Confidentiality of information**

46 **1. Confidentiality; exceptions.** Any reports, information or
48 records received and maintained by the board, professional
competence committee or professional review committee pursuant to
50 this chapter, including any material received or developed by the
board such an entity during an investigation shall--be are

2 confidential, except for information and data that ~~is~~ are
3 developed or maintained by the board from reports or records
4 received and maintained pursuant to this chapter or by the board
5 during an investigation and that ~~does~~ do not identify or permit
6 identification of any patient or physician, ~~provided that the~~
The board may also disclose any confidential information only:

8 A. In a disciplinary hearing before the board or in any
9 subsequent trial or appeal of a board action or order
10 relating to such the disciplinary hearing;

12 B. To governmental licensing or disciplinary authorities of
13 any jurisdiction or to any health care providers
14 organizations located within or outside this State which
15 that are concerned with granting, limiting or denying a
16 physician's hospital privileges, provided except that the
17 board shall include along with the transfer an indication as
18 to whether or not the information has been substantiated by
19 the board;

20 C. As required by section 2509, subsection 5;

22 D. Pursuant to an order of a court of competent
23 jurisdiction; or

24 E. To qualified personnel for bona fide research or
25 educational purposes, if personally identifiable information
26 relating to any patient or physician is first deleted.

30 **2. Confidentiality of orders in disciplinary proceedings.**

31 Orders of the board relating to disciplinary action against a
32 physician, including orders or other actions of the board
33 referring or scheduling matters for hearing, shall are not be
34 confidential.

36 **3. Availability of confidential information.** ~~In no event~~
37 ~~may confidential~~ Confidential information received, maintained or
38 developed by the board, health care organization, professional
39 competence committee or professional review committee, or
40 disclosed by ~~the board~~ such entities to others, pursuant to this
41 chapter, or information, data, incident reports or
42 recommendations gathered or made by or on behalf of a health care
43 provider organization pursuant to this chapter, may not be
44 available for discovery, court subpoena or introduced into
45 evidence in any medical malpractice suit or other action for
46 damages arising out of the provision or failure to provide health
47 care services. This confidential information includes reports to
48 and information gathered by both a professional competence
49 committee and a professional review committee.

