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MAJORITY
HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1225, L.D. 1737, Bill, "An Act to Provide for Confidentiality of Health Care Information"

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

PART A

Sec. A-1. 22 MRSA §1711, as enacted by PL 1977, c. 122, is amended to read:

§1711. Patient access to hospital medical records

If a patient of an institution licensed as a hospital by the State, after discharge from such institution, makes written request for copies of ~~his-or-her~~ the patient's medical records, the copies ~~shall~~ must, if available, be made available to the patient within a reasonable time unless, in the opinion of the hospital, it would be detrimental to the health of the patient to obtain the records. If the hospital is of the opinion that release of the records to the patient would be detrimental to the health of the patient, the hospital shall advise the patient that copies of the records ~~shall~~ will be made available to the patient's authorized representative upon presentation of a proper authorization signed by the patient. The hospital may exclude from the copies of medical records released any information

A. of B.

2 related to a clinical trail sponsored, authorized or regulated by
3 the federal Food and Drug Administration.

4 If an authorized representative for a patient requests, in
5 writing, that a hospital provide the authorized representative
6 with a copy of the patient's medical records and presents a
7 proper authorization from the patient for the release of the
8 information, copies shall must be provided to the authorized
9 representative within a reasonable time.

10 A written request or authorization for release of medical
11 records under this section satisfies the requirements of section
12 1711-C, subsection 3.

13 A patient may submit to a hospital an addition to the
14 patient's medical records, which must be retained with the
15 medical record by the hospital. If the hospital adds to the
16 medical record a statement in response to the submitted addition,
17 the hospital shall provide a copy to the patient.

18 Reasonable costs incurred by the hospital in making and
19 providing copies of medical records and additions to medical
20 records, shall must be borne by the requesting person and the
21 hospital may require payment prior to responding to the request.

22 Release of a patient's medical records to a person other
23 than the patient is governed by section 1711-C.

24 **Sec. A-2. 22 MRSA §1711-A**, as amended by PL 1991, c. 142,
25 §1, is further amended to read:

26 **§1711-A. Fees charged for records**

27 Whenever a health care practitioner defined in section
28 1711-B furnishes requested copies of a patient's medical
29 treatment record or a medical report or an addition to a
30 treatment record or medical report to the patient, the charge for
31 the copies or the report may not exceed the reasonable costs
32 incurred by the health care practitioner in making and providing
33 the copies or the report.

34 **Sec. A-3. 22 MRSA §1711-B, sub-§1, ¶¶A and B**, as enacted by PL
35 1991, c. 142, §2, are amended to read:

36 A. "Health care practitioner" has the same meaning as in
37 ~~Title-24, section 2502 1711-C, subsection 1, paragraph F.~~
38 ~~"Health-care-practitioner"-also-includes-"licensed-clinical~~
39 ~~social-workers"-as-defined-in-Title-32,-chapter-83-and~~
40 ~~"marriage---and---family---therapists"---and---"professional~~
41 ~~counselors"-as-defined-in-Title-32,-chapter-119.~~

2 B. "Treatment records" means all records relating to a
3 patient's diagnosis and, treatment and care, including x
4 rays, performed by a health care practitioner.

6 **Sec. A-4. 22 MRSA §1711-B, sub-§2**, as enacted by PL 1991, c.
7 142, §2, is amended to read:

8
9 **2. Access.** Upon written ~~consent of the person to whom~~
10 ~~copies of records must be released pursuant to this section~~
11 authorization executed in accordance with section 1711-C,
12 subsection 3, a health care practitioner shall release copies of
13 all treatment records of a patient or a narrative containing all
14 relevant information in the treatment records to the patient.
15 The health care practitioner may exclude from the copies of
16 treatment records released any personal notes that are not
17 directly related to the patient's past or future treatment and
18 any information related to a clinical trial sponsored, authorized
19 or regulated by the federal Food and Drug Administration. The
20 copies or narrative must be released to the designated person
21 within a reasonable time.

22
23 If the practitioner believes that release of the records to the
24 patient is detrimental to the health of the patient, the
25 practitioner shall advise the patient that copies of the
26 treatment records or a narrative containing all relevant
27 information in the treatment records will be made available to
28 the patient's authorized representative upon presentation of a
29 written authorization signed by the patient. The copies or
30 narrative must be released to the authorized representative
31 within a reasonable time.

32 Except as provided in subsection 3, release of a patient's
33 treatment records to a person other than the patient is governed
34 by section 1711-C.

35
36 **Sec. A-5. 22 MRSA §1711-B, sub-§3, ¶¶B and C**, as enacted by PL
37 1991, c. 142, §2, are amended to read:

38
39 B. The parent, guardian ad litem or legal guardian of the
40 person who is the subject of the record if the person is a
41 minor, or the legal guardian if the person who is the
42 subject of the record is mentally incompetent; or

43
44 C. The designee of a durable medical health care power of
45 attorney, ~~if the person who is the subject of the record is~~
46 ~~incompetent and executed such an instrument,~~ executed by the
47 person who is the subject of the record, at such time as the
48 power of attorney is in effect; or

Sec. A-6. 22 MRSA §1711-B, sub-§3, ¶D is enacted to read:

D. The agent, guardian or surrogate pursuant to the Uniform Health-care Decisions Act.

Sec. A-7. 22 MRSA §1711-B, sub-§3-A is enacted to read:

3-A. Additions to treatment records. A patient may submit to a health care practitioner an addition to the patient's treatment records, which must be retained with the treatment record by the health care practitioner. If the health care practitioner adds to the treatment record a statement in response to the submitted addition, the health care practitioner shall provide a copy to the patient.

Sec. A-8. 22 MRSA §1711-C is enacted to read:

§1711-C. Confidentiality of health care information

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized representative of an individual" or "authorized representative" means an individual's legal guardian; agent pursuant to Title 18-A, section 5-802; attorney-in-fact pursuant to Title 18-A, section 5-506; or other authorized representative or, after death, that person's personal representative. For a minor who has not consented to health care treatment in accordance with the provisions of state law, "authorized representative" means the minor's parent, legal guardian or guardian ad litem.

B. "Disclosure" means the release, transfer or provision of access to health care information in any manner.

C. "Health care" means preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures or counseling, including appropriate assistance with disease or symptom management and maintenance, that affects an individual's physical, mental or behavioral condition, including individual cells or their components or genetic information, or the structure or function of the human body or any part of the human body. Health care includes prescribing, dispensing or furnishing to an individual drugs, biologicals, medical devices or health care equipment and supplies; providing hospice services to an individual; and the banking of blood, sperm, organs or any other tissue.

2 D. "Health care facility" or "facility" means a facility,
3 institution or entity licensed pursuant to this Title that
4 offers health care to persons in this State, including a
5 home health care provider, hospice program and a pharmacy
6 licensed pursuant to Title 32. For the purposes of this
7 section, "health care facility" does not include a state
8 mental health institute, the Elizabeth Levinson Center, the
9 Aroostook Residential Center or Freeport Towne Square.

10 E. "Health care information" means information that relates
11 to an individual's physical, mental or behavioral condition;
12 personal or family medical history; medical treatment; or
13 health care provided to that individual that directly
14 identifies the individual. "Health care information" does
15 not include information that protects the anonymity of the
16 individual by means of encryption or encoding of individual
17 identifiers or information pertaining to or derived from
18 federally sponsored, authorized or regulated research
19 governed by 21 Code of Federal Regulations, Parts 50 and 56
20 and 45 Code of Federal Regulations, Part 46, to the extent
21 that such information is used in a manner that protects the
22 identification of individuals. The Board of Directors of
23 the Maine Health Data Organization shall adopt rules to
24 define health care information that directly identifies an
25 individual. Rules adopted pursuant to this paragraph are
26 major substantive rules as defined in Title 5, chapter 375,
27 subchapter II-A.

28 F. "Health care practitioner" means a person licensed by
29 this State to provide or otherwise lawfully provide health
30 care or a partnership or corporation made up of those
31 persons or an officer, employee, agent or contractor of that
32 person acting in the course and scope of employment, agency
33 or contract related to or supportive of the provision of
34 health care to an individual.

35 G. "Individual" means a natural person who is the subject
36 of the health care information under consideration and, in
37 the context of disclosure of health care information,
38 includes the individual's authorized representative.

39 H. "Third party" or "3rd party" means a person other than
40 the individual to whom the health care information relates.

41 2. Confidentiality of health information; disclosure. An
42 individual's health care information is confidential and may not
43 be disclosed by the health care practitioner or facility except
44 as provided in subsection 3, 6 or 11. Nothing in this section
45 prohibits a health care practitioner or health care facility from
46 adhering to applicable ethical or professional standards provided

that these standards do not decrease the protection of confidentiality granted by this section. Health care information disclosed pursuant to subsection 3, 6 or 11 retains its confidential nature after such disclosure and may be subsequently disclosed only if the written authorization to disclose allows future disclosures or if the disclosure is made pursuant to a separate written authorization to disclose or under circumstances stated in subsection 6 or 11.

3. Written authorization to disclose. A health care practitioner or facility may disclose health care information pursuant to a written authorization signed by an individual for the specific purpose stated in the authorization. An authorization to disclose health care information must be retained with the individual's health care information. An authorization to disclose is valid if it is in writing, whether as an original, facsimile or electronic form. An authorization to disclose must contain the following elements:

A. The name and signature of the individual and the date of signature. If the authorization is in electronic form, a unique identifier of the individual and the date the individual authenticated the electronic authorization must be stated in place of the individual's signature and date of signature;

B. The types of persons authorized to disclose health care information and the nature of the health care information to be disclosed;

C. The identity or description of the 3rd party to whom the information is to be disclosed;

D. The specific purpose or purposes of the disclosure and whether any subsequent disclosures may be made pursuant to the same authorization. An authorization to disclose health care information related to substance abuse treatment or care subject to the requirements of 42 United States Code, Section 290ee-3 (Supplement 1997) is governed by the provisions of that law;

E. The duration of the authorization;

F. A statement that the individual may refuse authorization to disclose all or some health care information but that refusal may result in improper diagnosis or treatment, denial of coverage or a claim for health benefits or other insurance or other adverse consequences;

2 G. A statement that the authorization may be revoked at any
3 time by the individual by executing a written revocation,
4 subject to the right of any person who acted in reliance on
5 the authorization prior to receiving notice of revocation,
6 instructions on how to revoke an authorization and a
7 statement that revocation may be the basis for denial of
8 health benefits or other insurance coverage or benefits; and

9
10 H. A statement that the individual is entitled to a copy of
11 the authorization form.

12 4. Duration of written authorization to disclose. A
13 written authorization to disclose may not extend longer than 30
14 months, except that the duration of an authorization for the
15 purposes of insurance coverage under Title 24, 24-A or 39-A is
16 governed by the provisions of Title 24, 24-A or 39-A,
17 respectively.

18
19 5. Revocation of authorization to disclose. An individual
20 may revoke a written authorization to disclose at any time,
21 subject to the rights of any person who acted in reliance on the
22 authorization prior to receiving notice of revocation. A
23 revocation of authorization must be in writing and must be signed
24 and dated by the individual. If the revocation is in electronic
25 form, a unique identifier of the individual and the date the
26 individual authenticated the electronic authorization must be
27 stated in place of the individual's signature and date of
28 signature. A revocation of authorization must be retained with
29 the individual's authorization and health care information.

30
31 6. Disclosure without written authorization to disclose. A
32 health care practitioner or facility may disclose, or when
33 required by law must disclose, health care information without
34 written authorization to disclose under the circumstances stated
35 in this subsection or as provided in subsection 11. The
36 circumstances in which disclosure may be made without written
37 authorization to disclose include the following:

38
39 A. To another health care practitioner or facility for
40 diagnosis, treatment or care of the individual as follows:

41
42 (1) In emergency circumstances; or

43
44 (2) In nonemergency circumstances:

45 (a) For a disclosure within the office, practice
46 or organization of the health care practitioner or
47 facility, when the disclosure is made for a
48 purpose related to the provision of health care to
49 the individual; or
50

2 (b) For a disclosure outside of the office,
3 practice or organization of the health care
4 practitioner or facility, when authorization is
5 given orally by the individual or may be inferred
6 from the individual's conduct. Health care
7 information related to an HIV test, HIV infection
8 or HIV infection status, as defined in Title 5,
9 section 19201, subsections 3, 4-A and 5, may not
10 be disclosed in reliance on an authorization
11 inferred from an individual's conduct;

12
13 B. To an agent, employee, independent contractor or a
14 successor in interest of the health care practitioner or
15 facility or to a member of a quality assurance, utilization
16 review or peer review team to the extent necessary to carry
17 out the practitioner's or facility's lawful purposes in
18 diagnosing, treating or caring for the individual, including
19 billing and collection, risk management, quality assurance,
20 utilization review and peer review. Disclosure for a
21 purpose listed in this paragraph is not a disclosure for the
22 purpose of marketing or sales;

23 C. To a family or household member when an individual is
24 receiving diagnosis, treatment or care in an emergency care
25 facility or health care facility. A disclosure made pursuant
26 to this paragraph may include only the presence and general
27 health condition of the individual;

28
29 D. When a health care practitioner or facility that is
30 providing or has provided diagnosis, treatment or care to
31 the individual has determined, based on reasonable
32 professional judgment, that the individual poses a direct
33 threat of imminent harm to the health or safety of any
34 individual. A disclosure pursuant to this paragraph must
35 protect the confidentiality of the health care information
36 consistent with sound professional judgment;

37 E. To federal, state or local governmental entities in
38 order to protect the public health and welfare when
39 reporting is required or authorized by law;

40 F. To federal, state or local governmental entities
41 pursuant to statute, subpoena or court order for use in an
42 investigation relating to the individual; a health care
43 practitioner or facility; a health, life, disability
44 insurance or health care benefits entity required to be
45 licensed pursuant to Title 24 or 24-A; a 3rd party; or
46 pursuant to a subpoena or court order in a civil proceeding
47 filed in a court. The requesting governmental entity must
48
49
50

2 specify the nature and type of health care information to be
3 disclosed. For the purposes of this section, "governmental
4 entity" includes a licensing board for a health care
5 practitioner;

6 G. When necessary to conduct scientific research approved
7 by an institutional review board or by the board of a
8 nonprofit health research organization or when necessary for
9 a clinical trial sponsored, authorized or regulated by the
10 federal Food and Drug Administration. A person conducting
11 research or a clinical trial may not identify any individual
12 patient in any report arising from the research or clinical
13 trial. For the purposes of this paragraph, "institutional
14 review board" means any board, committee or other group
15 formally designated by a health care facility and authorized
16 under federal law to review, approve or conduct periodic
17 review of research programs. Health care information
18 disclosed pursuant to this paragraph that identifies an
19 individual must be returned to the health care practitioner
20 or facility from which it was obtained or must be destroyed
21 when it is no longer required for the research or clinical
22 trial. Disclosure for a purpose listed in this paragraph is
23 not a disclosure for the purpose of marketing or sales;

24
25
26 H. To a person engaged in the assessment, evaluation or
27 investigation of the provision of or payment for health care
28 or the practices of a health care practitioner or facility
29 or to an agent, employee or contractor of such a person,
30 pursuant to statutory or professional standards or
31 requirements. Disclosure for a purpose listed in this
32 paragraph is not a disclosure for the purpose of marketing
33 or sales;

34 I. To a person engaged in the regulation, accreditation,
35 licensure or certification of a health care practitioner or
36 facility or to an agent, employee or contractor of such a
37 person, pursuant to standards or requirements for
38 regulation, accreditation, licensure or certification;

39
40 J. To a person engaged in the review of the provision of
41 health care by a health care practitioner or facility or
42 payment for such health care under Title 24, 24-A or 39-A
43 or under a public program for the payment of health care or
44 professional liability insurance for a health care
45 practitioner or facility or to an agent, employee or
46 contractor of such a person; or

47
48 K. To attorneys for a health care practitioner or facility
49 as determined by the practitioner or facility to be required
50 for adequate legal representation.

2 7. Confidentiality policies. A health care practitioner or
3 facility shall develop and implement policies, standards and
4 procedures to protect the confidentiality, security and integrity
5 of health care information to ensure that information is not
6 negligently, inappropriately or unlawfully disclosed. The
7 policies, standards and procedures must state that information
8 disclosed remains confidential and that the person to whom the
9 information is disclosed must protect the confidentiality of the
10 information.

12 8. Prohibited disclosure. A health care practitioner or
13 facility may not disclose health care information for the purpose
14 of marketing or sales without written authorization for the
15 disclosure.

16 9. Disclosures of additions to health care information. A
17 health care practitioner or facility shall provide to a 3rd party
18 a copy of an addition submitted by an individual to the
19 individual's health care information if:

22 A. The health care practitioner or facility provided a copy
23 of the original health care record to the 3rd party on or
24 after January 1, 1999;

26 B. The addition was submitted by the individual pursuant to
27 section 1711 or 1711-B and relates to diagnosis, treatment
28 or care;

30 C. The individual requests that a copy be sent to the 3rd
31 party and provides an authorization that meets the
32 requirements of subsection 3; and

34 D. If requested by the health care practitioner or
35 facility, the individual pays to the health care
36 practitioner or facility all reasonable costs requested by
37 that practitioner or facility.

38 10. Requirements for disclosures. Except as otherwise
39 provided by law, disclosures of health care information pursuant
40 to this section are subject to the following requirements.

42 A. A health care practitioner or facility that discloses
43 health care information pursuant to subsection 3 may not
44 disclose information in excess of the information requested
45 in the authorization.

48 B. A health care practitioner or facility that discloses
49 health care information pursuant to subsections 3 and 6 may

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2 not disclose information in excess of the information
3 reasonably required for the purpose for which it is
4 disclosed.

6 C. If a health care practitioner or facility believes that
7 release of health care information to the individual would
8 be detrimental to the health of the individual, the health
9 care practitioner or facility shall advise the individual
10 and make copies of the records available to the individual's
11 authorized representative upon receipt of a written
12 authorization.

14 D. If a health care practitioner or facility discloses
15 partial or incomplete health care information, as compared
16 to the request or directive to disclose under subsection 3
17 or 6, the disclosure must expressly indicate that the
18 information disclosed is partial or incomplete.

20 **11. Health care information subject to other laws, rules**
21 **and regulations.** An authorization to disclose or a disclosure of
22 health care information that is subject to the provisions of 42
23 United States Code, Section 290ee-3 (Supplement 1997); chapters
24 710 and 711; Title 5, section 200-E; Title 24 or 24-A; Title
25 34-B, section 1207; Title 39-A; or other provisions of state or
26 federal law, rule or regulation is governed by those provisions.

28 **12. Minors.** If a minor has consented to health care in
29 accordance with the laws of this State, authorization to disclose
30 health care information pursuant to this section must be given by
31 the minor unless otherwise provided by law.

32 **13. Enforcement.** This section may be enforced within 2
33 years of the date a disclosure in violation of this section was
34 or should reasonably have been discovered.

36 A. When the Attorney General has reason to believe that a
37 person has intentionally violated a provision of this
38 section, the Attorney General may bring an action to enjoin
39 unlawful disclosure of health care information.

40 B. An individual who is aggrieved by conduct in violation
41 of this section may bring a civil action against a person
42 who has unlawfully disclosed health care information in the
43 Superior Court in the county in which the individual resides
44 or the disclosure occurred. The action may seek to enjoin
45 unlawful disclosure and may seek costs and a forfeiture or
46 penalty under paragraph C. An applicant for injunctive
47 relief under this paragraph may not be required to give
48 security as a condition of the issuance of the injunction.

2 C. A person who violates this section commits a civil
4 violation for which a forfeiture not to exceed \$1,000,
6 payable to the State, may be adjudged for a negligent
8 violation, plus costs. A person who violates this section
10 is subject to a civil penalty not to exceed \$5,000, payable
12 to the State, for an intentional violation, plus costs. If
14 a court finds that intentional violations of this section
16 have occurred after due notice of the violating conduct with
18 sufficient frequency to constitute a general business
20 practice, the person is subject to a civil penalty not to
22 exceed \$10,000 for health care practitioners and \$50,000 for
24 health care facilities, payable to the State. A civil
26 penalty under this subsection is recoverable in a civil
28 action.

14 14. Waiver prohibited. Any agreement to waive the
16 provisions of this section is against public policy and void.

20 15. Immunity. A cause of action in the nature of
22 defamation, invasion of privacy or negligence does not arise
24 against any person for disclosing health care information in
26 accordance with this section. This section provides no immunity
28 for disclosing false information with malice or willful intent to
30 injure any person.

32 16. Application. This section applies to all requests and
34 directives to disclose health care information issued or received
36 on or after January 1, 1999 and to all authorizations to disclose
38 health care information executed on or after January 1, 1999.

40 **Sec. A-9. Report.** The Superintendent of Insurance shall
42 report to the joint standing committee of the Legislature having
44 jurisdiction over banking and insurance matters and the joint
46 standing committee of the Legislature having jurisdiction over
48 health and human services matters by January 1, 2000 on
50 complaints against insurers, health maintenance organizations and
 managed care entities related to their requirements for
 collecting health care information from or about individuals.
 The report must contain any recommendations of the Superintendent
 for legislative or administrative action.

Sec. A-10. Effective date. This Part takes effect January 1,
 1999 with the exception of section 9 of this Part which takes
 effect August 1, 1998.

PART B

Sec. B-1. 5 MRSA §19203, sub-§2, as amended by PL 1995, c.
 404, §4, is further amended to read:

2 **2. Designated health care provider.** To a health care
3 provider designated by the subject of the test in writing
4 pursuant to Title 22, section 1711-C. ~~When--a--patient--has~~
5 ~~authorized--disclosure--of--HIV--test--results--to--a--person--or~~
6 ~~organization--providing--health--care,--the--patient's--health--care~~
7 ~~provider--may--make--these--results--available--only--to--other--health~~
8 ~~care--providers--working--directly--with--the--patient,--and--only--for~~
9 ~~the--purpose--of--providing--direct--medical--or--dental--patient--care.~~
10 Any health care provider who discloses HIV test results in good
11 faith pursuant to this subsection is immune from any criminal or
12 civil liability for the act of disclosing HIV test results to
13 other health care providers;

14 **Sec. B-2. 5 MRSA §19203, sub-§9,** as repealed and replaced by
15 PL 1987, c. 811, §3, is amended to read:

16 **9. Medical records.** As part of a medical record when
17 release or disclosure of that record is authorized pursuant to
18 ~~section 19203-D~~ Title 22, section 1711, 1711-B, subsection 1 or
19 section 1711-C, subsection 3, 6 or 11; or

20 **Sec. B-3. 5 MRSA §19203, last ¶,** as repealed and replaced by PL
21 1987, c. 811, §3, is amended to read:

22 Nothing in this section may be construed as prohibiting the
23 entry of an HIV test result on the patient's medical record in
24 accordance with this chapter.

25 **Sec. B-4. 5 MRSA §19203-D,** as amended by PL 1995, c. 404,
26 §14, is repealed.

27 **Sec. B-5. 22 MRSA §1711-B, sub-§5,** as enacted by PL 1991, c.
28 142, §2, is amended to read:

29 **5. HIV test.** Release of information regarding the HIV
30 infection status of a patient is governed by ~~Title 5,~~ section
31 19203-D 1711-C.

32 **Sec. B-6. Effective date.** This Part takes effect January 1,
33 1999.'

34 Further amend the bill by inserting at the end before the
35 summary the following:

FISCAL NOTE

1998-99

APPROPRIATIONS/ALLOCATIONS

General Fund \$48,344

The bill includes a General Fund appropriation to the Department of the Attorney General of \$48,344 in fiscal year 1998-99 to provide funds for one Assistant Attorney General position to handle the increase in lawsuits dealing with confidentiality of health care information.

The additional costs associated with adopting rules can be absorbed by the Maine Health Data Organization utilizing existing budgeted resources.

This bill may increase the number of civil suits and civil violations filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees and fines may also increase General Fund revenue by minor amounts.

The Bureau of Insurance within the Department of Professional and Financial Regulation will incur some minor additional costs to submit a required report to the Legislature. These costs can be absorbed within the bureau's existing budgeted resources.'

SUMMARY

This amendment is the majority report of the Joint Standing Committee on Health and Human Services. It replaces the bill. It retains the provisions of the bill declaring an individual's health care information to be confidential.

The amendment specifies the requirements for disclosure pursuant to an authorization to disclose and when no authorization has been given. In specifying the requirements for disclosure and authorization to disclose, the amendment provides that authorizations to disclose and disclosures that are subject to the provisions of 42 United States Code, Section 290ee-3 (Supplement 1997), the Maine Revised Statutes, Title 5, section 200-E; Title 22, chapters 710 and 711; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other provisions of state or federal law, rule or regulation are governed by those

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2 provisions. The amendment restricts disclosures to information
requested in the authorization or required for the purposes of
the disclosure.

4
6 The amendment brings the handling of information related to
human immune deficiency virus, or HIV, into conformance with the
handling of other health information with the exception that it
8 prohibits reliance on implied consent for HIV information.

10 The amendment allows for enforcement through a civil action
brought by the Attorney General or an individual aggrieved by
12 conduct in violation of the provisions of the amendment. It does
not allow for the recovery of an individual's attorney's fees in
14 such an action.

16 The amendment applies the requirements for authorizations
and disclosures of health care information to all authorizations
18 and disclosures on or after January 1, 1999.

20 The amendment adds a fiscal note.

COMMITTEE AMENDMENT