

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 432

H.P. 342

House of Representatives, February 1, 2001

An Act to Make Changes to the Board of Licensure in Medicine.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative VOLENIK of Brooklin.

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

Sec. 1. 24 MRSA §2902, as repealed and replaced by PL 1985, c. 804, §§13 and 22, is amended to read:

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

Actions for professional negligence ~~shall~~ must be commenced within ~~3~~ 6 years after the cause of action accrues. For the purposes of this section, a cause of action accrues on the date of the act or omission giving rise to the injury. Notwithstanding the provisions of Title 14, section 853, relating to minority, actions for professional negligence by a minor ~~shall~~ must be commenced within ~~6~~ 12 years after the cause of action accrues or within ~~3~~ 6 years after the minor reaches the age of majority, whichever first occurs. This section does not apply ~~where~~ when the cause of action is based upon the leaving of a foreign object in the body, in which case the cause of action ~~shall--accrue~~ accrues when the plaintiff discovers or reasonably should have discovered the harm. For the purposes of this section, the term "foreign object" does not include a chemical compound, prosthetic aid or object intentionally implanted or permitted to remain in the patient's body as a part of the health care or professional services.

If the provision in this section reducing the time allowed for a minor to bring a claim is found to be void or otherwise invalidated by a court of proper jurisdiction, then the statute of limitations for professional negligence ~~shall-be~~ is 2 years after the cause of action accrues, except that no claim brought under the ~~3-year~~ 6-year statute of limitations may be extinguished by the operation of this paragraph.

Sec. 2. 32 MRSA §3263, first ¶, as amended by PL 1997, c. 680, Pt. C, §1, is further amended to read:

The Board of Licensure in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," consists of ~~9~~ 10 individuals who are residents of this State, appointed by the Governor. ~~Three~~ Five individuals must be representatives of the public. ~~Six~~ Five individuals must be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and must have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. A full-term appointment is for 6 years. Appointment of members must comply with section 60. A member of the board may be removed from office for cause by the Governor.

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Sec. 3. 32 MRSA §3269-A is enacted to read:

§3269-A. Judicial review

A person aggrieved by an action of the board may seek judicial review pursuant to Title 5, chapter 375, subchapter VII.

Sec. 4. Transition. Within 30 days after the effective date of this Act, the Governor shall appoint a representative of the public to the Board of Licensure in Medicine. Upon the expiration of the term of the next member who is licensed to practice medicine, the Governor shall appoint a member of the public to fill that vacancy.

SUMMARY

This bill increases the Board of Licensure in Medicine to 10 members and requires 5 of the members to be representatives of the public. This bill also allows a person aggrieved by an action of the board to appeal to the Superior Court and increases the statute of limitations on actions against health care providers from 3 years to 6 years.