

# MAINE STATE LEGISLATURE

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H. O. O.

L.D. 846

DATE: 5-16-03

(Filing No. H-435)

MAJORITY  
JUDICIARY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 623, L.D. 846, Bill, "An Act To Protect Health Care Practitioners Responding to Public Health Threats"

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

Sec. 1. 22 MRSA §816, sub-§1, as enacted by PL 1989, c. 487, §11, is amended to read:

1. For private institutions. Any private institution, its employees or agents shall-be are immune from civil liability to the extent provided in Title 14, chapter 741, as if that institution were a state agency and its employees and agents were state employees, for any acts taken to provide for the confinement or restraint of a person committed pursuant to this chapter or for participating in reporting under this chapter, or for engaging in any prescribed care within the meaning of this chapter in support of the State's response to a declared extreme public health emergency in accordance with the provisions of this chapter and Title 37-B, chapter 13, subchapter 2.

Sec. 2. 24 MRSA §2904, as repealed and replaced by PL 1995, c. 625, Pt. C, §3, is repealed and the following enacted in its place:

§2904. Immunity from civil liability for volunteer activities

1. Health care practitioners. Notwithstanding any inconsistent provision of any public or private and special law, an individual is not liable for an injury or death arising from

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medical services provided as described in this subsection unless the injury or death was caused willfully, wantonly or recklessly or by gross negligence of the individual if that individual is:

A. A licensed health care practitioner who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services within the scope of that health care practitioner's licensure:

(1) To a nonprofit organization;

(2) To an agency of the State or any political subdivision of the State;

(3) To members or recipients of services of a nonprofit organization or state or local agency;

(4) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;

(5) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or

(6) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2; or

B. An emergency medical services' person who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides emergency medical services within the scope of that person's licensure:

(1) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;

(2) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or

(3) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2.

2. Retired physicians, podiatrists and dentists. Notwithstanding any inconsistent provision of any public or private and special law, a licensed physician, podiatrist or dentist who has retired from practice and who voluntarily,

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COMMITTEE AMENDMENT "A" to H.P. 623, L.D. 846

2 without the expectation or receipt of monetary or other  
3 compensation either directly or indirectly, provides professional  
4 services within the scope of that physician's, podiatrist's or  
5 dentist's licensure is not liable for an injury or death arising  
6 from those services unless the injury or death was caused  
7 willfully, wantonly or recklessly by the physician, podiatrist or  
8 dentist for professional services provided:

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10 A. To a nonprofit organization;

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12 B. To an agency of the State or any political subdivision  
13 of the State;

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15 C. To members or recipients of services of a nonprofit  
16 organization or state or local agency;

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18 D. To support the State's response to a public health  
19 threat as defined in Title 22, section 801, subsection 10;

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21 E. To support the State's response to an extreme public  
22 health emergency as defined in Title 22, section 801,  
23 subsection 4-A; or

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25 F. To support the State's response to a disaster as defined  
26 in Title 37-B, section 703, subsection 2.

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28 The extended immunity under this subsection applies only if the  
29 licensed physician, podiatrist or dentist is retired from  
30 practice, possessed an unrestricted license in the relevant  
31 profession and had not been disciplined by the licensing board in  
32 the previous 5 years at the time of the act or omission causing  
33 the injury.

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35 3. Definitions. As used in this section, unless the  
36 context otherwise indicates, the following terms have the  
37 following meanings.

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39 A. "Dentist" means a person who practices dentistry  
40 according to the provisions of Title 32, section 1081.

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42 B. "Health care practitioner" has the same meaning as in  
43 section 2502.

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45 C. "Nonprofit organization" does not include a hospital.

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47 D. "Podiatrist" has the same meaning as in Title 32,  
48 section 3551.

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50 E. "Emergency medical services' person" includes a first  
51 responder, as defined in Title 32, section 83, subsection

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2           13-A; a basic emergency medical technician, as defined in  
3           Title 32, section 83, subsection 7; and an advanced  
4           emergency medical technician, as defined in Title 32,  
5           section 83, subsection 1.'

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**SUMMARY**

9           This amendment replaces the bill. It provides limited  
10          immunity from civil liability for health care practitioners and  
11          emergency medical services' persons who provide services in  
12          response to a public health threat. It repeals and replaces the  
13          current law concerning immunity from civil liability for  
14          volunteer activities.

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**FISCAL NOTE REQUIRED**  
**(See attached)**

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD 846**

**An Act To Protect Health Care Practitioners Responding to Public  
Health Threats**

**LR 1580(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Judiciary**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor savings - General Fund  
Minor revenue decrease - General Fund

**Correctional and Judicial Impact Statements**

May decrease the number of civil suits filed in the court system.

**Fiscal Detail and Notes**