

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1574

H.P. 1112

House of Representatives, December 22, 2009

An Act To Amend the Rights and Liabilities of the Supervisory Physician of a Physician Assistant

Submitted by the Department of Defense, Veterans and Emergency Management pursuant to Joint Rule 204.

Received by the Clerk of the House on December 18, 2009. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative CAREY of Lewiston.
Cosponsored by Senator SULLIVAN of York and
Representatives: BEAULIEU of Auburn, CORNELL du HOUX of Brunswick, FITTS of
Pittsfield, KNIGHT of Livermore Falls, LAJOIE of Lewiston, SAVIELLO of Wilton,
STUCKEY of Portland, VALENTINO of Saco.

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

Sec. 1. 37-B MRSA §185, sub-§1, as amended by PL 1995, c. 196, Pt. B, §2, is further amended to read:

1. Immunity from civil and criminal liability. A member of the state military forces may not be liable civilly or criminally for any act done or caused, ordered or directed to be done by that member while on active state service in the performance of that member's duty. If an action of any nature has been commenced in any court by any person against an officer or enlisted member of the state military forces for such an act, done or caused, ordered or directed to be done, all expenses of the defense of the action, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, must be paid by the State out of the Military Fund. When the action is civil, it is the duty of the Attorney General to defend that officer or enlisted member. When the action is criminal, the Adjutant General shall designate a judge advocate of the National Guard or other authorized state military or naval force to conduct the defense of the member. If the services of a judge advocate are not available, the Adjutant General shall select some other competent attorney to conduct the defense. In any civil action, the defendant may require the person instituting the action to file security for payment of costs that may be awarded the defendant, which costs, if paid out of the Military Fund, when received, must be paid into the State Treasury and credited to the Military Fund. This subsection applies to the actions of a supervisory physician of a physician assistant under Title 32, section 3270-B who is on active state service in the performance of the physician assistant's duty without regard to the duty status of the supervisory physician.

SUMMARY

This bill amends the rights and liabilities of military force members to provide immunity to the supervisory physician of a physician assistant regardless of the duty status of the supervisory physician.