

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 198

H.P. 159

House of Representatives, February 5, 2013

An Act To Clarify Physicians' Delegation of Medical Care

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DORNEY of Norridgewock.

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

2 **Sec. 1. 32 MRSA §2594-A, first ¶**, as amended by PL 1993, c. 600, Pt. A, §184,
3 is further amended to read:

4 Nothing contained in this chapter may be construed to prohibit an individual from
5 rendering medical services, if these services are rendered under the supervision and
6 control of a physician, and if the individual has satisfactorily completed a training
7 program approved by the Board of Osteopathic Licensure. Supervision and control may
8 not be construed as requiring the personal presence of the supervising and controlling
9 physician at the place where these services are rendered, unless a physical presence is
10 necessary to provide patient care of the same quality as provided by the physician.
11 Nothing in this chapter may be construed as prohibiting a physician from delegating to
12 the physician's employees or support staff certain activities relating to medical care and
13 treatment carried out by custom and usage when these activities are under the direct
14 control of ~~and in the personal presence of~~ the physician. The physician delegating these
15 activities to employees or support staff, to program graduates or to participants in an
16 approved training program is legally liable for the activities of those individuals, and any
17 individual in this relationship is considered the physician's agent. Nothing contained in
18 this section may be construed to apply to registered nurses acting pursuant to chapter 31.

19 **Sec. 2. 32 MRSA §3270-A, first ¶**, as amended by PL 1999, c. 159, §1, is further
20 amended to read:

21 This chapter may not be construed to prohibit an individual from rendering medical
22 services if these services are rendered under the supervision and control of a physician or
23 surgeon and if that individual has satisfactorily completed a training program approved
24 by the Board of Licensure in Medicine and a competency examination determined by this
25 board. Supervision and control may not be construed as requiring the personal presence
26 of the supervising and controlling physician at the place where these services are
27 rendered, unless a physical presence is necessary to provide patient care of the same
28 quality as provided by the physician. This chapter may not be construed as prohibiting a
29 physician or surgeon from delegating to the physician's or surgeon's employees or support
30 staff certain activities relating to medical care and treatment carried out by custom and
31 usage when the activities are under the control of the physician or surgeon ~~who must be~~
32 ~~present on the premises at the time the activities are performed~~. The physician delegating
33 these activities to employees or support staff, to program graduates or to participants in
34 an approved training program is legally liable for the activities of those individuals, and
35 any individual in this relationship is considered the physician's agent. This section may
36 not be construed to apply to registered nurses acting pursuant to chapter 31.

37 **SUMMARY**

38 This bill clarifies that a physician or surgeon may delegate to the physician's or
39 surgeon's employees or support staff certain activities relating to medical care and
40 treatment without being present on the premises at the time the activities are performed.