

# MAINE STATE LEGISLATURE

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L.D. 1267

Date: 3/27/2018

(Filing No. S-424)

**JUDICIARY**

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**STATE OF MAINE  
SENATE  
128TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 430, L.D. 1267, Bill, "An Act To Protect Licensing Information of Medical Professionals"

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

**Sec. 1. 32 MRSA §2109-A** is enacted to read:

**§2109-A. Inspection or copying of record; procedure**

**1. Request for licensing file; redaction.** When the board receives a request to inspect or copy all or part of the licensing file of an applicant or licensee, the board shall redact information that is not public before making the file available for inspection or copying.

**2. Notice and opportunity to review.** When the board acknowledges a request to inspect or copy an applicant's or a licensee's licensing file as required by Title 1, section 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the applicant's or licensee's last address on file with the board explaining that the request has been made and that the applicant or licensee may review the redacted licensing file before it is made available for inspection or copying. The applicant or licensee has 10 business days from the date the board sends the notice to request the opportunity to review the redacted licensing file. If the applicant or licensee so requests, the board shall send a copy of the redacted licensing file to the applicant or licensee for review. The board shall make the redacted licensing file available to the requester for inspection and copying 10 business days after sending the redacted licensing file to the applicant or licensee for review unless the board receives notice from the applicant or licensee under subsection 4.

**3. Reasonable costs.** Reasonable costs related to the review of a licensing file by the applicant or licensee are considered part of the board's costs to make the redacted licensing file available for inspection and copying under subsection 2 and may be charged to the requester.

**4. Injunction based on personal safety.** An applicant or licensee may bring an action in Superior Court to enjoin the board from releasing all or part of a licensing file

**COMMITTEE AMENDMENT**

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under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the file is disclosed to the public. The applicant or licensee must file the action within 10 business days after the board sends the applicant or licensee the redacted licensing file and shall immediately provide written notice to the board that the action has been filed and that the board may not make the file available for inspection and copying until the action is resolved.

5. Hearing. The hearing on an action filed under subsection 4 may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. 2. 32 MRSA §2600-D is enacted to read:**

**§2600-D. Inspection or copying of record; procedure**

1. Request for licensing file; redaction. When the board receives a request to inspect or copy all or part of the licensing file of an applicant or licensee, the board shall redact information that is not public before making the file available for inspection or copying.

2. Notice and opportunity to review. When the board acknowledges a request to inspect or copy an applicant's or a licensee's licensing file as required by Title 1, section 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the applicant's or licensee's last address on file with the board explaining that the request has been made and that the applicant or licensee may review the redacted licensing file before it is made available for inspection or copying. The applicant or licensee has 10 business days from the date the board sends the notice to request the opportunity to review the redacted licensing file. If the applicant or licensee so requests, the board shall send a copy of the redacted licensing file to the applicant or licensee for review. The board shall make the redacted licensing file available to the requester for inspection and copying 10 business days after sending the redacted licensing file to the applicant or licensee for review unless the board receives notice from the applicant or licensee under subsection 4.

3. Reasonable costs. Reasonable costs related to the review of a licensing file by the applicant or licensee are considered part of the board's costs to make the redacted licensing file available for inspection and copying under subsection 2 and may be charged to the requester.

4. Injunction based on personal safety. An applicant or licensee may bring an action in Superior Court to enjoin the board from releasing all or part of a licensing file under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the file is disclosed to the public. The applicant or licensee must file the action within 10 business days after the board sends the applicant or licensee the redacted licensing file and shall immediately provide written notice to the board that the action has been filed and that the board may not make the file available for inspection and copying until the action is resolved.

5. Hearing. The hearing on an action filed under subsection 4 may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. 3. 32 MRSA §3300-G is enacted to read:**

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**§3300-G. Inspection or copying of record; procedure**

**Inspection or copying of record; procedure**

**1. Request for licensing file; redaction.** When the board receives a request to inspect or copy all or part of the licensing file of an applicant or licensee, the board shall redact information that is not public before making the file available for inspection or copying.

**2. Notice and opportunity to review.** When the board acknowledges a request to inspect or copy an applicant's or a licensee's licensing file as required by Title 1, section 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the applicant's or licensee's last address on file with the board explaining that the request has been made and that the applicant or licensee may review the redacted licensing file before it is made available for inspection or copying. The applicant or licensee has 10 business days from the date the board sends the notice to request the opportunity to review the redacted licensing file. If the applicant or licensee so requests, the board shall send a copy of the redacted licensing file to the applicant or licensee for review. The board shall make the redacted licensing file available to the requester for inspection and copying 10 business days after sending the redacted licensing file to the applicant or licensee for review unless the board receives notice from the applicant or licensee under subsection 4.

**3. Reasonable costs.** Reasonable costs related to the review of a licensing file by the applicant or licensee are considered part of the board's costs to make the redacted licensing file available for inspection and copying under subsection 2 and may be charged to the requester.

**4. Injunction based on personal safety.** An applicant or licensee may bring an action in Superior Court to enjoin the board from releasing all or part of a licensing file under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the file is disclosed to the public. The applicant or licensee must file the action within 10 business days after the board sends the applicant or licensee the redacted licensing file and shall immediately provide written notice to the board that the action has been filed and that the board may not make the file available for inspection and copying until the action is resolved.

**5. Hearing.** The hearing on an action filed under subsection 4 may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.'

**SUMMARY**

This amendment replaces the bill.  
This amendment allows applicants and licensees of the State Board of Nursing, the Board of Osteopathic Licensure and the Board of Licensure in Medicine to review their own redacted licensing files before the respective board makes the file available for inspection or copying after the licensing file has been requested.  
The board must notify the applicant or licensee of the request to view the file at the same time the board acknowledges the request under the Freedom of Access Act. The

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COMMITTEE AMENDMENT "A" to S.P. 430, L.D. 1267

1 board must use the most recent address on file for that applicant or licensee. If the  
2 applicant or licensee would like to review the redacted file before it is made publicly  
3 available, the applicant or licensee must notify the board within 10 business days. If  
4 requested by the applicant or licensee, the board must send a copy of the redacted file to  
5 the applicant or licensee, and the applicant or licensee has 10 business days from when  
6 the file is sent to stop the release of the redacted licensing file by filing an action in  
7 Superior Court to enjoin the release of the file because making the redacted file available  
8 to the public creates a potential risk to the personal safety of the applicant or licensee or  
9 any 3rd party.

**FISCAL NOTE REQUIRED**  
(See attached)



Approved: 03/20/18 *mac*

# 128th MAINE LEGISLATURE

LD 1267

LR 919(02)

## An Act To Protect Licensing Information of Medical Professionals

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-424)

Committee: Judiciary

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Funds

Minor revenue increase - General Fund

### Correctional and Judicial Impact Statements

Increases the number of civil suits.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund revenue by minor amounts.

### Fiscal Detail and Notes

Additional costs to the State Board of Nursing, the Board of Osteopathic Licensure and the Board of Licensure in Medicine, all affiliated with the Department of Professional and Financial Regulation, to implement the requirements of this legislation can be absorbed within existing budgeted resources.