

MAINE STATE LEGISLATURE

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Date: 6/4/19

Majority

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 211, L.D. 287, Bill, "An Act To Impose on Mental Health Professionals a Duty To Warn and Protect"

Amend the bill in section 1 in §2600-D in subsection 1 in the 5th and 6th lines (page 1, lines 8 and 9 in L.D.) by striking out the following: "or that constitutes a serious threat of substantial damage to real property"

Amend the bill in section 1 in §2600-D by striking out all of subsection 3 (page 1, lines 18 to 20 in L.D.) and inserting the following:

'3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against an osteopathic physician licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.'

Amend the bill in section 2 in §3300-G in subsection 1 in the 5th and 6th lines (page 1, lines 27 and 28 in L.D.) by striking out the following: "or that constitutes a serious threat of substantial damage to real property"

Amend the bill in section 2 in §3300-G by striking out all of subsection 3 (page 1, lines 36 and 37 in L.D.) and inserting the following:

'3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against a physician licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.'

Amend the bill in section 3 in §3820 in subsection 1 in the 4th and 5th lines (page 2, lines 5 and 6 in L.D.) by striking out the following: "or that constitutes a serious threat of substantial damage to real property"

Amend the bill in section 3 in §3820 by striking out all of subsection 3 (page 2, lines 15 and 16 in L.D.) and inserting the following:

'3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.'

COMMITTEE AMENDMENT

R. G. S.

1 Amend the bill in section 4 in §6207-C in subsection 1 in the 5th and 6th lines (page
2 2, lines 23 and 24 in L.D.) by striking out the following: "or that constitutes a serious
3 threat of substantial damage to real property"

4 Amend the bill in section 4 in §6207-C by striking out all of subsection 3 (page 2,
5 lines 33 to 35 in L.D.) and inserting the following:

6 **'3. Immunity. No monetary liability and no cause of action may arise concerning**
7 **client privacy or confidentiality against an alcohol and drug counselor certified or**
8 **licensed under this chapter for information disclosed to 3rd parties in an effort to**
9 **discharge a duty under subsection 2.'**

10 Amend the bill in section 5 in §7006 in subsection 1 in the 4th and 5th lines (page 3,
11 lines 2 and 3 in L.D.) by striking out the following: "or that constitutes a serious threat of
12 substantial damage to real property"

13 Amend the bill in section 5 in §7006 by striking out all of subsection 3 (page 3, lines
14 12 and 13 in L.D.) and inserting the following:

15 **'3. Immunity. No monetary liability and no cause of action may arise concerning**
16 **client privacy or confidentiality against a person licensed under this chapter for**
17 **information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.'**

18 Amend the bill in section 6 in §13866 in subsection 1 in the 4th and 5th lines (page 3,
19 lines 19 and 20 in L.D.) by striking out the following: "or that constitutes a serious threat
20 of substantial damage to real property"

21 Amend the bill in section 6 in §13866 by striking out all of subsection 3 (page 3, lines
22 29 and 30 in L.D.) and inserting the following:

23 **'3. Immunity. No monetary liability and no cause of action may arise concerning**
24 **client privacy or confidentiality against a person licensed under this chapter for**
25 **information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.'**

26 SUMMARY

27 This amendment clarifies the duty that the bill imposes on certain professionals to
28 warn and protect if a patient or client is likely to engage in physical violence by limiting
29 the duty to cases in which there is a belief that the patient is likely to pose a serious risk
30 of harm to self or others. The bill includes a duty with regard to a serious threat of
31 substantial damage to real property, which this amendment deletes.

32 This amendment also replaces the immunity language provided in the bill to make
33 clear that there is no monetary liability and that the specific mental health professionals
34 are not subject to a cause of action based on the disclosure of information to a 3rd party in
35 an effort to discharge the duty to warn or protect.