L.D. 1746

Date: 6/14/19 **MINORITY** (Filing No. S-364)

INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS

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STATE OF MAINE

SENATE

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 580, L.D. 1746, Bill, "An Act To Amend the Licensing Laws of Certain Professions and Occupations"

Amend the bill in Part A in section 2 in paragraph A by striking out all of subparagraph (12) (page 2, lines 5 to 7 in L.D.) and inserting the following:

'(12) Failure of an individual subject to Title 22, section 1711 or Title 22, section 1711-B to provide to a patient, upon written request, a copy of that patient's treatment records in accordance with the requirements of Title 22, section 1711 or Title 22, section 1711-B, whichever is applicable.'

Amend the bill by inserting after Part E the following:

'PART F

Sec. F-1. 22 MRSA §1711, first and 2nd ¶¶, as amended by PL 1997, c. 793, Pt. A, §1 and affected by §10, are further amended to read:

If a patient of an institution licensed as a hospital by the State, after discharge from such institution, makes written request for copies of the patient's medical records, the copies must, if available, be made available to the patient in accordance with the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) or for a hospital not subject to the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) within a reasonable time unless, in the opinion of the hospital, it would be detrimental to the health of the patient to obtain the records. If the hospital is of the opinion that release of the records to the patient would be detrimental to the health of the patient, the hospital shall advise the patient that copies of the records will be made available to the patient's authorized representative upon presentation of a proper authorization signed by the patient. The hospital may exclude from the copies of medical records released any information related to a clinical trial sponsored, authorized or regulated by the federal Food and Drug Administration.

If an authorized representative for a patient requests, in writing, that a hospital provide the authorized representative with a copy of the patient's medical records and presents a proper authorization from the patient for the release of the information, copies must be provided to the authorized representative in accordance with the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) or for a hospital not subject to the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) within a reasonable time.

Sec. F-2. 22 MRSA §1711-B, sub-§2, as amended by PL 1997, c. 793, Pt. A, §4 and affected by §10, is further amended to read:

2. Access. Upon written authorization executed in accordance with section 1711-C, subsection 3, a health care practitioner shall release copies of all treatment records of a patient or a narrative containing all relevant information in the treatment records to the patient. The health care practitioner may exclude from the copies of treatment records released any personal notes that are not directly related to the patient's past or future treatment and any information related to a clinical trial sponsored, authorized or regulated by the federal Food and Drug Administration. The copies or narrative must be released to the designated person in accordance with the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) or for a health care practitioner not subject to the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) within a reasonable time.

If the practitioner believes that release of the records to the patient is detrimental to the health of the patient, the practitioner shall advise the patient that copies of the treatment records or a narrative containing all relevant information in the treatment records will be made available to the patient's authorized representative upon presentation of a written authorization signed by the patient. The copies or narrative must be released to the authorized representative in accordance with the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) or for a health care practitioner not subject to the requirements of 45 Code of Federal Regulations, Section 164.524 (2019) within a reasonable time.

Except as provided in subsection 3, release of a patient's treatment records to a person other than the patient is governed by section 1711-C.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment changes the language that allows an office, board or commission to discipline a licensee for failure to provide treatment records in a reasonable amount of time to instead reference the Maine Revised Statutes, Title 22, section 1711 and Title 22, section 1711-B. The amendment amends Title 22, section 1711 and Title 22, section 1711-B to reference the requirements of the federal Health Insurance Portability and Accountability Act of 1996 regarding access to patient records.

FISCAL NOTE REQUIRED

(See attached)

Approved: 06/02/19 mac

129th MAINE LEGISLATURE

LD 1746 **LR 2369(03)**

An Act To Amend the Licensing Laws of Certain Professions and Occupations

Fiscal Note for Bill as Amended by Committee Amendment 'B' (S-304)
Committee: Innovation, Development, Economic Advancement and Business
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs to the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation to implement the requirements of this legislation can be absorbed within existing budgeted resources.