

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1419

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S.P. 469

In Senate, April 12, 2021

### **An Act To Support Health Care Providers during State Public Health Emergencies**

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Received by the Secretary of the Senate on April 8, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator MOORE of Washington.  
Cosponsored by Senator: STEWART of Aroostook.

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

2 **Sec. 1. 24 MRSA §2904-A** is enacted to read:

3 **§2904-A. Maine Public Health Emergency Health Care Response Liability Act**

4 **1. Short title.** This section may be referred to as "the Maine Public Health Emergency  
5 Health Care Response Liability Act."

6 **2. Definitions.** As used in this section, unless the context otherwise indicates, the  
7 following terms have the following meanings.

8 A. "Assisted housing program" means an assisted housing program licensed pursuant  
9 to Title 22, chapter 1663 or 1664.

10 B. "Behavioral and developmental services facility" means an agency or facility  
11 providing services for children or adults with intellectual or developmental disabilities  
12 or autism governed by Title 34-B, chapters 5 and 6.

13 C. "Covered person or entity" means an assisted housing program, behavioral and  
14 developmental services facility, dentist, emergency medical services person, health  
15 care facility, health care professional, home health care provider, hospice program or  
16 hospice provider, laboratory and pharmacist.

17 D. "Dentist" means a person who is licensed to practice dentistry according to the  
18 provisions of Title 32, section 18371.

19 E. "Emergency medical services person" means a person who is licensed by the  
20 Emergency Medical Services' Board under Title 32, chapter 2-B or a person who  
21 supports emergency medical care as an employee of such a person.

22 F. "Health care facility" means a health care facility licensed pursuant to Title 22,  
23 chapter 405; an agency or facility providing mental health services licensed pursuant  
24 to Title 34-B, section 1203-A; an agency or facility providing children's mental health  
25 services governed by Title 34-B, chapter 15; and an approved public treatment facility,  
26 approved treatment facility or community service provider as defined in Title 5, section  
27 20003.

28 G. "Health care professional" means a health care practitioner as defined in section  
29 2502, subsection 1-A and any person licensed, certified or otherwise qualified to  
30 provide direct care as an employee or contractor of any health care facility or any  
31 behavioral and developmental services facility.

32 H. "Home health care provider" means a home health care provider licensed pursuant  
33 to Title 22, chapter 419.

34 I. "Hospice program" or "hospice provider" means a hospice program or hospice  
35 provider licensed pursuant to Title 22, chapter 1681.

36 J. "Laboratory" means a medical laboratory licensed by the State pursuant to Title 22,  
37 chapter 411.

38 K. "Pharmacist" means an individual licensed pursuant to Title 32, chapter 117 to  
39 engage in the practice of pharmacy.

40 **3. Limitation on civil liability upon proclamation of civil emergency related to**  
41 **public health.** Except as provided in subsection 4, upon a declaration that a health

1 emergency exists pursuant to Title 22, section 802, subsection 2, a declaration of an  
2 extreme public health emergency pursuant to Title 22, section 802, subsection 2-A or a  
3 declaration of a state of emergency related to public health pursuant to Title 37-B, section  
4 742, a covered person or entity is not liable for an injury or death arising from a health care  
5 service delivered during the declared emergency as long as:

6 A. The health care service was affected by decisions or activities in response to  
7 treatment conditions resulting from the declared emergency; and

8 B. The health care service was within the scope of the license, registration, certification  
9 or other documented qualification of the covered person or entity.

10 **4. Exception.** Subsection 3 does not apply if the injury or death was caused by an act  
11 or omission constituting willful, wanton or reckless conduct or by gross negligence of the  
12 covered person or entity.

13 **Sec. 2. Retroactivity.** This Act applies retroactively to March 15, 2020.

#### 14 **SUMMARY**

15 This bill provides a limitation on civil liability to certain health care professionals,  
16 health care facilities, behavioral and developmental services facilities and emergency  
17 medical services persons in the event of a declared emergency related to public health. The  
18 bill is retroactive to the beginning of the state of civil emergency declared by the Governor  
19 in response to the COVID-19 pandemic.