

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1207

H.P. 767

House of Representatives, March 16, 2023

**An Act to Implement the Recommendations of the Right To Know
Advisory Committee Concerning Public Records Exceptions**

Reported by Representative MOONEN of Portland for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

Robert B. Hunt

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 24 MRSA §2302-A, sub-§3**, as enacted by PL 1987, c. 168, §1, is amended
3 to read:

4 **3. Confidentiality.** Any information provided pursuant to this section ~~shall~~ may not
5 identify the names of patients. If patient names are identified in information provided
6 pursuant to this section, the patient names are confidential.

7 **Sec. 2. 24 MRSA §2510, sub-§1**, as amended by PL 2011, c. 524, §§9 and 10, is
8 further amended to read:

9 **1. Confidentiality; exceptions.** Any reports, information or records received and
10 maintained by the board pursuant to this chapter, including any material received or
11 developed by the board during an investigation ~~shall be~~ is confidential, except for
12 information and data that is developed or maintained by the board from reports or records
13 received and maintained pursuant to this chapter or by the board during an investigation
14 and that does not identify or permit identification of any patient or physician; provided that
15 the board may disclose any confidential information only:

16 A. In a disciplinary hearing before the board or in any subsequent trial or appeal of a
17 board action or order relating to such disciplinary hearing;

18 B. To governmental licensing or disciplinary authorities of any jurisdiction or to any
19 health care providers or health care entities located within or outside this State that are
20 concerned with granting, limiting or denying a physician's privileges, but only if the
21 board includes along with the transfer an indication as to whether or not the information
22 has been substantiated by the board;

23 C. As required by section 2509, subsection 5;

24 D. Pursuant to an order of a court of competent jurisdiction;

25 E. To qualified personnel for bona fide research or educational purposes, if personally
26 identifiable information relating to any patient or physician is first deleted; or

27 F. To other state or federal agencies when the information contains evidence of
28 possible violations of laws enforced by those agencies.

29 **Sec. 3. 24 MRSA §2510, sub-§2**, as enacted by PL 1977, c. 492, §3, is amended to
30 read:

31 **2. Confidentiality of orders in disciplinary proceedings.** Orders of the board
32 relating to disciplinary action against a physician, including orders or other actions of the
33 board referring or scheduling matters for hearing, ~~shall not be~~ are not confidential.

34 **Sec. 4. 24 MRSA §2604**, as corrected by RR 2015, c. 1, §25, is amended to read:

35 **§2604. Records of superintendent**

36 For the purpose of evaluation of policy provisions, rate structures and the arbitration
37 process and for recommendations of further legislation, the Superintendent of Insurance
38 shall retain the information and maintain the files in the form and for such period as the
39 superintendent determines necessary. The superintendent shall maintain the reports filed in
40 accordance with this section, and all data or information derived therefrom that identifies
41 or permits identification of the insured or insureds or the incident or occurrences for which

1 a claim was made, as ~~strictly~~ confidential records. Data and information derived from
2 reports filed in accordance with this section that do not identify or permit identification of
3 the insured or insureds or the incident or occurrence for which a claim was made may be
4 released by the superintendent or otherwise made available to the public. Reports made to
5 the superintendent and records thereof kept by the superintendent are not subject to
6 discovery and are not admissible in any trial, civil or criminal, other than proceedings
7 brought before or by the board.

8 **Sec. 5. 24-A MRSA §6907, sub-§1**, as enacted by PL 2003, c. 469, Pt. A, §8, is
9 amended to read:

10 **1. Financial information.** Any personally identifiable financial information,
11 supporting data or tax return of any person obtained by Dirigo Health under this chapter is
12 confidential ~~and not open to public inspection.~~

13 **Sec. 6. 24-A MRSA §6907, sub-§2**, as enacted by PL 2003, c. 469, Pt. A, §8, is
14 amended to read:

15 **2. Health information.** Health information obtained by Dirigo Health under this
16 chapter that is covered by the federal Health Insurance Portability and Accountability Act
17 of 1996, Public Law 104-191, 110 Stat. 1936 or information covered by chapter 24 or Title
18 22, section 1711-C is confidential ~~and not open to public inspection.~~

19 SUMMARY

20 This bill implements statutory changes recommended by the Right To Know Advisory
21 Committee after reviewing certain existing public records exceptions in Titles 23, 24 and
22 24-A.

23 The bill clarifies that patient names contained in utilization review data reports filed by
24 nonprofit hospitals and medical service organizations with the Superintendent of Insurance
25 must be kept confidential.

26 The bill makes grammatical corrections to the confidentiality provisions of the Maine
27 Health Security Act related to professional competence reports.

28 The bill removes the word "strictly" from the section of the Maine Health Security Act
29 requiring confidentiality for all data or information that identifies or permits identification
30 of the insured or insureds or the incident or occurrences for which a claim was made
31 contained in records of the Superintendent of Insurance retained for the purpose of
32 evaluation of policy provisions, rate structures, the arbitration process and for
33 recommendations of further legislation.

34 The bill removes unnecessary language from the statute governing the confidentiality
35 of information within records maintained by Dirigo Health.