

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

**ONE HUNDRED AND TENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
December 3, 1980 to June 19, 1981

**AND AT THE**

**FIRST SPECIAL SESSION**  
August 3, 1981

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

1981

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2. **Contracts.** Any contract executed pursuant to this section shall be deemed to grant authority to use the crossing to the abutting landowners at the point of crossing and also to those utilizing the crossing with the landowner's permission.

Effective September 18, 1981

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## CHAPTER 211

H. P. 562 — L. D. 638

### AN ACT Relating to the Confidentiality of Communications Between Patients and Dentists.

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

Sec. 1. 22 MRSA § 4015, as enacted by PL 1979, c. 733, § 18, is amended to read:

#### § 4015. Privileged or confidential communications

The husband-wife and physician and psychotherapist-patient privileges under the rules of evidence and the confidential quality of communication under Title 20, sections 805 and 806, Title 24-A, section 4224 and Title 32, ~~section sections~~ 1092-A and 7005, are abrogated in relation to required reporting, cooperating with the department or a guardian ad litem in an investigation or other child protective activity or giving evidence in a child protection proceeding.

Sec. 2. 32 MRSA § 1092-A is enacted to read:

#### § 1092-A. Confidentiality

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

A. "Confidential communication" means a communication not intended to be disclosed to 3rd persons other than those present to further the interest of the patient in the consultation, examination or interview or persons who are participating in the diagnosis and treatment under the direction of the dentist, including members of the patient's family.

B. "Patient" means a person who consults or is examined or interviewed by a dentist or dental auxiliary.

2. **General rule of privilege.** A patient has a privilege to refuse to disclose and

to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his physical, mental or emotional conditions, including alcohol or drug addiction, among himself, his dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

3. Who may claim the privilege. The privilege may be claimed by the patient, by his guardian or conservator or by the personal representative of a deceased patient. The person who was the dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.

4. Exceptions. Notwithstanding any other provisions of law, the following are exceptions.

A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course thereof are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.

B. There is no privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of the patient in any proceeding in which the condition of the patient is an element of the claim or defense of the patient, or of any party claiming through or under the patient, or because of the patient's condition, or claiming as a beneficiary of the patient, through a contract to which the patient is or was a party, or after the patient's death, in any proceeding in which any party puts the condition in issue.

C. There is no privilege under this section as to information regarding any patient which is sought by the Chief Medical Examiner or his designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or his designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person.

*Effective September 18, 1981*

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## CHAPTER 212

H. P. 666 — L. D. 770

**AN ACT to Clarify Application of the Workers' Compensation Law to Injuries Received by an Employee who Voluntarily Participates on an Employer-Sponsored Athletic Team.**