

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
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vide complete and accurate records in accordance with the rules adopted by the commissioner shall be an additional violation resulting in a separate civil penalty of not less than \$200 nor more than \$1,000 for each such failure. The fine Any civil penalty collected under this section shall be payable to the Treasurer of State and credited without lapsing to the commissioner for the enforcement of this section. The commissioner shall adopt and may amend rules consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this section. Prior to their adoption, these rules shall be reported to the Joint Standing Committee on Agriculture by January 15, 1980 for its review. In addition to the enforcement powers and penalties established in this section, the commissioner may issue subpoenas to any individual in order to compel delivery of any reports or records which are required under this section. These subpoenas shall be enforceable by any court of competent jurisdiction.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 20, 1985.

CHAPTER 185

S.P. 534 - L.D. 1435

AN ACT to Encourage Early Identification and Treatment of Impaired Physicians.

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

Sec. 1. 24 MRSA §2502, sub-§4-A is enacted to read:

4-A. Professional review committee. "Professional review committee" means a committee of physicians formed by a professional society for the purpose of identifying and working with physicians who are disabled or impaired by virtue of physical or mental infirmity or by the misuse of alcohol or drugs, as long as such committee operates pursuant to protocols approved by the Board of Registration in Medicine.

Sec. 2. 24 MRSA §2505, as enacted by PL 1977, c. 492, §3, is amended to read:

§2505. Committee reports

Any professional competence committee within this State and any physician licensed to practice or otherwise lawfully practicing within this State shall, and any other person may, report the relevant facts to the appropriate board relating to the acts of any physician in this State if, in the opinion of the committee, physician or other person, the committee or individual has reasonable knowledge of acts of the physician amounting to gross or repeated medical malpractice, habitual drunkenness, addiction to the use of drugs or professional incompetence. The failure of any such professional competence committee or any such physician to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Except for specific protocols developed by the board pursuant to Title 32, section 3298, no physician or committee is responsible for reporting misuse of alcohol or drugs or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol or drugs discovered by the physician or committee as a result of participation or membership in a professional review committee or with respect to any information acquired concerning misuse of alcohol or drugs or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol or drugs, as long as that information is reported to the professional review committee. Nothing in this section may prohibit an impaired physician from seeking alternative forms of treatment.

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

3. Availability of confidential information. In no event shall any confidential information received, maintained or developed by the board, or disclosed by the board to others, pursuant to this chapter, or information, data, incident reports or recommendations gathered or made by or on behalf of a health care provider pursuant to this chapter, be available for discovery, court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision or failure to provide health care services. This confidential information includes reports to and information gathered by a professional review committee.

Sec. 4. 24 MRSA §2511, as enacted by PL 1977, c. 492, §3, is amended to read:

§2511. Immunity

Any person acting without malice, and any physician, health care provider, professional society, or member of a professional competence committee or of the board, in making any report or other information available to the board or to a professional review committee pursuant to law, or in assisting in the origination, investigation or preparation of such information, or in assisting the board or a professional review committee in carrying out any of its duties or functions provided by law, shall be immune from civil or criminal liability, except as provided in section 2510, subsection 4, for any such actions.

Sec. 5. 32 MRSA §3298 is enacted to read:

§3298. Establishment of protocols for operation of professional review committee

The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols shall include the committee reporting information the board considers appropriate regarding reports received, contacts or investigations made and the disposition of each report, provided that the committee may not be required to disclose any personally identifiable information. Nothing in the protocols may prohibit an impaired physician from seeking alternative forms of treatment.

Effective September 19, 1985.

CHAPTER 186

H.P. 1004 - L.D. 1448

AN ACT Concerning Living Wills.

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

22 MRSA c. 710-A is enacted to read: