

Date:

(Filing No. S- )

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**STATE OF MAINE**

**SENATE**

**130TH LEGISLATURE**

**FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 469, L.D. 1419, “An Act To Support Health Care Providers during State Public Health Emergencies”

Amend the bill by striking out all of section 1 and inserting the following:

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

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

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

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

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

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

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

D. "Declared emergency" means the period of time to which any of the following applies: a declaration that a health emergency exists pursuant to Title 22, section 802, subsection 2, a declaration of an extreme public health emergency pursuant to Title 22, section 802, subsection 2-A or a declaration of a state of emergency related to public health pursuant to Title 37-B, section 742.

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

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

4 G. "Health care facility" means a health care facility licensed pursuant to Title 22,  
5 chapter 405; an agency or facility providing mental health services licensed pursuant  
6 to Title 34-B, section 1203-A; an agency or facility providing children's mental health  
7 services governed by Title 34-B, chapter 15; and an approved public treatment facility,  
8 approved treatment facility or community service provider as defined in Title 5, section  
9 20003.

10 H. "Health care professional" means a health care practitioner as defined in section  
11 2502, subsection 1-A and any person licensed, certified or otherwise qualified to  
12 provide direct care as an employee or contractor of any health care facility or any  
13 behavioral and developmental services facility.

14 I. "Home health care provider" means a home health care provider licensed pursuant  
15 to Title 22, chapter 419.

16 J. "Hospice program" or "hospice provider" means a hospice program or hospice  
17 provider licensed pursuant to Title 22, chapter 1681.

18 K. "Laboratory" means a medical laboratory licensed by the State pursuant to Title 22,  
19 chapter 411.

20 L. "Pharmacist" means an individual licensed pursuant to Title 32, chapter 117 to  
21 engage in the practice of pharmacy.

22 **3. Limitation on civil liability upon proclamation of civil emergency related to**  
23 **public health.** Except as provided in subsection 4, a covered person or entity is not liable  
24 for an injury or death arising from the delivery, cancellation, rescheduling, delay or  
25 withholding of a health care service during a declared emergency when:

26 A. The declared emergency or conditions necessitating the declared emergency  
27 prevented a covered person or entity from providing the level or manner of care that  
28 otherwise would have been reasonable in the absence of the declared emergency or  
29 conditions necessitating the declared emergency; and

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

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

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

## 37 SUMMARY

38 This amendment adds a definition of "declared emergency" and exempts covered  
39 persons and entities from liability related to the delivery, cancellation, rescheduling, delay  
40 or withholding of health care services during a declared emergency if the declared  
41 emergency or conditions necessitating the declared emergency prevented a covered person  
42 or entity from providing the level or manner of care that otherwise would have been

- 1 reasonable in the absence of the declared emergency or conditions necessitating the
- 2 declared emergency and the health care service was within the scope of the license,
- 3 registration, certification or other documented qualification of the covered person or entity.