



Janet T. Mills  
Governor

STATE OF MAINE  
DEPARTMENT OF  
PROFESSIONAL & FINANCIAL REGULATION



Joan F. Cohen  
Commissioner

February 3, 2025

Senator Anne Carney, Chair  
Representative Amy Kuhn, Chair  
Joint Standing Committee on Judiciary  
100 State House Station  
Augusta, ME 04333

**Re: LD 152 “An Act to Amend the Freedom of Access Act to Require a Specific Time Frame for Agencies to Comply with Requests for Public Records”**

Dear Senator Carney, Representative Kuhn and Members of the Judiciary Committee:

The Department of Professional and Financial Regulation would like to share its concerns with and opposition to LD 152 which proposes to amend the Freedom of Access Act (FOAA) to impose a 30-day time limit on agencies responding to requests for information. This would be a drastic change from the current requirement that records be provided “within a reasonable time.”

Although the Department and its affiliated boards work diligently to respond to FOAA requests promptly, and are able to respond to most requests within 30 days, there are several circumstances that can make this impractical, including:

- Many Department records are confidential records or contain a mixture of confidential and non-confidential information, which can require additional time identifying which parts of the records can be provided, and which parts of records may need to be redacted. Often, we need to include the Office of the Maine Attorney General as to whether the requested information can be provided to the requestor and to ensure that only appropriate information is provided. Depending upon the request, this can be a very time-consuming effort.
- Retrieving archived records, which may be physically housed in a location off-site, requires making arrangements for staff to access the material. In addition, this may require manual work to search and copy records. Other types of archived records may be kept on microfiche or other types of storage, which may be time consuming to locate and copy.

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- At least one of our affiliated boards, the Board of Licensure in Medicine (BOLIM), has a statutory requirement to notify the licensee whose information was requested and provide 10 business days for that licensee to request a review of the records (see Title 32 §3300-H.) If the licensee requests a review, the licensee has an additional 10 business days to review the redacted record. The licensee may petition BOLIM to withhold release of a record. BOLIM must rule on the request within 60 days of receiving the petition. If the licensee disagrees with BOLIM's decision they may file a petition in Superior Court. Needless to say, this statutorily required process does not fit within the proposed 30-day time limit.

The Department, like many state agencies, does not have dedicated staff whose only function is responding to FOAA requests. This means the work required to respond to a FOAA request pulls one or more staff members away from their primary responsibilities. If this legislation were to pass, we would need to hire dedicated FOAA staff.

In our experience many of the most time-consuming records requests we receive are not from individual consumers or members of the media but are from commercial entities who make voluminous requests for information, such as contact information regarding our licensees that they can use for marketing or other commercial purposes. An arbitrary 30-day deadline, requiring our limited staff to prioritize these requests over other important work, would benefit commercial requesters without providing any added benefit to Maine consumers.

Finally, the Right to Know Advisory Committee reviewed the time frame in this statute in 2024 and following a discussion with the Executive Director of the Board of Medicine, the Committee recommended keeping the statute with no changes.

Thanks for your consideration of our opposition. We would be happy to answer any questions for the work session.

Sincerely,



Joan Cohen  
Commissioner, Department of Professional and Financial Regulation.