

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 148 - L.D. 227

An Act Regarding Legally Protected Health Care Activity in the State

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

PART A

Sec. A-1. 14 MRSA c. 763 is enacted to read:

CHAPTER 763

LEGALLY PROTECTED HEALTH CARE ACTIVITY

§9001. Legislative findings and declaration of policy

The Legislature finds and declares that:

1. Legal right to gender-affirming health care services and reproductive health care services. Access to gender-affirming health care services and reproductive health care services in this State, as authorized under the laws of this State, is a legal right;

2. Interference with legally protected health care activity against public policy. Whether or not under the color of law, interference with legally protected health care activity and interference with aiding and assisting legally protected health care activity is against the public policy of this State; and

3. Public acts in other states. Any public act of another state that prohibits, criminalizes, sanctions, authorizes a person to bring a civil action against or otherwise interferes with a person in this State who engages in legally protected health care activity or who aids and assists legally protected health care activity:

A. Interferes with the exercise and enjoyment of the rights secured by this State; and

B. Is against the public policy of this State.

§9002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Aid and assist legally protected health care activity. "Aid and assist legally protected health care activity" and "aiding and assisting legally protected health care activity" mean:

A. Any act or omission of a person aiding or effectuating or attempting to aid or effectuate any other person in legally protected health care activity; or

B. The provision or administration of, or attempted provision or administration of, insurance coverage for gender-affirming health care services or reproductive health care services to a beneficiary or a dependent of a beneficiary by any insurer, payor or employer.

"Aiding and assisting legally protected health care activity" does not include any conduct that deviates from the applicable standard of care or that could form the basis of a civil, criminal or administrative action under the laws of this State had the course of conduct that forms the basis for liability occurred entirely within this State.

2. Aggrieved person. "Aggrieved person" means:

A. A person against whom hostile litigation is filed or prosecuted or the legal representative of a person against whom hostile litigation is filed or prosecuted;

B. The employer of a person against whom hostile litigation is filed or prosecuted if the legally protected health care activity or aiding and assisting legally protected health care activity of the person that forms the basis of the hostile litigation was performed within the scope of the person's employment; or

C. A person in this State upon whom a subpoena seeking information concerning legally protected health care activity or aiding and assisting legally protected health care activity is served by any federal or state court in connection with hostile litigation.

3. Foreign judgment. "Foreign judgment" means any judgment, decree or order of a court of another state.

4. Gender-affirming health care services. "Gender-affirming health care services" means all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventive, rehabilitative or supportive nature, including medication, relating to the treatment of gender dysphoria and gender incongruence in accordance with the accepted standard of care as defined by major medical professional organizations and agencies with expertise in the field of gender-affirming health care, including the Standards of Care for the Health of Transgender and Gender Diverse People, Version 8, or subsequent version, published by the World Professional Association for Transgender Health. "Gender-affirming health care services" does not include conversion therapy as defined in Title 32, section 59-C, subsection 1.

5. Health care practitioner. "Health care practitioner" has the same meaning as in Title 24, section 2502, subsection 1-A, except that "health care practitioner" does not include a veterinarian. "Health care practitioner" also includes persons licensed under:

A. Title 32, chapter 18;

B. Title 32, chapter 32;

C. Title 32, chapter 83;

D. Title 32, chapter 117; and

E. Title 32, chapter 119.

6. Hostile litigation. "Hostile litigation" means any litigation or other legal action, including civil, criminal or administrative action, to deter, prevent, sanction or punish any health care practitioner or person assisting a health care practitioner who provides legally protected health care activity or aids and assists legally protected health care activity by:

A. Filing or prosecuting any litigation or other legal action in any other state where liability, in whole or in part, directly or indirectly, is based on legally protected health care activity or aiding and assisting legally protected health care activity that occurred in this State, including any action in which liability is based on any theory of vicarious, joint or several liability; or

B. Attempting to enforce any order or judgment issued in connection with any litigation or other legal action under paragraph A by any party to the action or by any person acting on behalf of any party to the action.

For purposes of this chapter, litigation or other legal action is based on legally protected health care activity or aiding and assisting legally protected health care activity that occurred in this State if any part of any act or omission involved in the course of conduct that forms the basis for liability in the action occurs or is initiated in this State, whether or not the act or omission is alleged or included in any pleading or other filing in the lawsuit.

7. Law enforcement agency. "Law enforcement agency" means any court, department or agency of this State, a political subdivision of this State or a college or a university in this State charged with the enforcement of laws or the custody of detained persons. "Law enforcement agency" includes the Department of the Attorney General and district attorneys' offices.

8. Legally protected health care activity. "Legally protected health care activity" means:

A. The exercise and enjoyment or attempted exercise and enjoyment by any person of the right secured by this State to gender-affirming health care services or reproductive health care services; and

B. The provision or attempted provision of gender-affirming health care services or reproductive health care services that are authorized under the laws of this State and that are provided in accordance with the applicable standard of care by a health care practitioner licensed under the laws of this State and physically present in this State, regardless of whether the patient is located in this State or whether the health care practitioner is licensed in the state where the patient is located at the time the services are rendered.

"Legally protected health care activity" does not include any conduct that could form the basis of a civil, criminal or administrative action under the laws of this State had the course of conduct that forms the basis for liability occurred entirely within this State.

9. Reproductive health care services. "Reproductive health care services" means all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventive, rehabilitative or supportive nature, including medication, relating to pregnancy, contraception, assisted reproduction, pregnancy loss management or the termination of a pregnancy in accordance with the

applicable standard of care as defined by major medical professional organizations and agencies with expertise in the field of reproductive health care.

10. State. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

§9003. Tortious interference with legally protected health care activity

1. Civil action. An aggrieved person may bring a civil action for damages, punitive damages, equitable relief, injunctive relief or any other appropriate relief against another person that, whether or not acting under color of law, files or prosecutes hostile litigation. For purposes of this subsection, "damages" may include the amount of any judgment issued in connection with the hostile litigation as well as all other expenses, costs and reasonable attorney's fees incurred in connection with the hostile litigation.

2. Attorney's fees and costs. An aggrieved person that prevails in an action brought under this section is entitled to an award of attorney's fees and costs.

3. Exception. An aggrieved person may not bring an action under this section if the hostile litigation is based on conduct for which a civil, criminal or administrative action would exist under the laws of this State if the conduct or course of conduct that forms the basis for liability in the hostile litigation had occurred entirely within this State.

§9004. Foreign judgments issued in connection with hostile litigation

1. Jurisdiction and due process required. A court of this State may not give any force or effect to any foreign judgment in connection with hostile litigation if the court that issued the foreign judgment did not:

- A. Have personal jurisdiction over the defendant;
- B. Have jurisdiction over the subject matter; or
- C. Provide due process of law.

2. Limitations period. Notwithstanding any provision of law to the contrary, an action on a foreign judgment in connection with hostile litigation must be commenced by filing a new and independent action on the judgment within 5 years of the foreign judgment.

§9005. Testimony and documents in connection with hostile litigation

1. Court order. Notwithstanding any provision of state law or court rule to the contrary and except as required by federal law, a court of this State may not order a person who is domiciled or found within this State to give testimony or a statement or produce documents or other information in any proceeding involving hostile litigation.

2. Subpoena. An aggrieved person may move to modify or quash any subpoena issued in connection with hostile litigation on any grounds provided by law or court rule or on the ground that the subpoena is inconsistent with the public policy of this State as provided in section 9001.

3. Summons. Except as required by federal law, a court in this State may not issue a summons or warrant in a case involving criminal prosecution or a pending grand jury investigation under the criminal laws of another state for engaging in legally protected health care activity or aiding and assisting legally protected health care activity unless the

conduct forming the basis of the prosecution or grand jury investigation would also constitute a criminal offense if the conduct occurred entirely within this State.

§9006. Prohibition on expenditure of public resources; noncooperation

1. Prohibition on expenditure of public resources. Notwithstanding any provision of state law to the contrary and except as required by federal law, a public agency, including a law enforcement agency, and an employee, appointee, officer or official or any other person acting on behalf of a public agency may not knowingly provide any information or expend or use time, money, facilities, property, equipment, personnel or other resources in furtherance of any interstate investigation or proceeding seeking to impose civil, administrative or criminal liability upon a person or entity for:

- A. Legally protected health care activity; or
- B. Aiding and assisting legally protected health care activity.

2. Noncooperation. Notwithstanding any provision of state law to the contrary and except as required by federal law, an officer or employee of a law enforcement agency, while acting under color of law, may not knowingly provide information or assistance to a federal law enforcement agency, to any law enforcement agency in another state or political subdivision of another state or to any private citizen in relation to an investigation or inquiry into services constituting legally protected health care activity or aiding and assisting legally protected health care activity.

3. No arrest. Notwithstanding any provision of state law to the contrary and except as required by federal law, arrest of a person in this State is prohibited if the arrest is related to criminal liability that is based on legally protected health care activity or aiding and assisting legally protected health care activity.

4. Exceptions. This section does not apply to a public agency, including a law enforcement agency, or an employee, appointee, officer or official or any other person acting on behalf of a public agency:

- A. When responding to a warrant or extradition demand on the good faith belief that the warrant or demand is valid in this State; or
- B. When exigent circumstances make compliance with this section impossible. For the purposes of this paragraph, "exigent circumstances" means circumstances in which there is insufficient time to comply with this section and there is a compelling need for action due to the presence of an imminent danger to public safety.

§9007. Choice of law

Notwithstanding any general or special law or common law conflict of law rule to the contrary, the laws of this State govern in any case or controversy heard in this State involving legally protected health care activity or aiding and assisting legally protected health care activity.

PART B

Sec. B-1. 14 MRSA §402, sub-§2-A is enacted to read:

2-A. Aiding and assisting legally protected health care activity. "Aiding and assisting legally protected health care activity" has the same meaning as in section 9002, subsection 1.

Sec. B-2. 14 MRSA §402, sub-§2-B is enacted to read:

2-B. Legally protected health care activity. "Legally protected health care activity" has the same meaning as in section 9002, subsection 8.

Sec. B-3. 14 MRSA §403, sub-§1-A is enacted to read:

1-A. Attestation. A request for issuance of a subpoena under this section must be accompanied by an affidavit stating whether the foreign subpoena seeks documents, information, inspection or testimony related to the provision or receipt of or attempted provision or receipt of legally protected health care activity or aiding and assisting legally protected health care activity. The court shall provide a form for the completion of the affidavit. The form must contain a statement informing the affiant that making a false statement on the affidavit may be punishable as the crime of false swearing under the laws of this State.

Sec. B-4. 14 MRSA §403, sub-§2, as enacted by PL 2019, c. 109, §1, is amended to read:

2. Submission of foreign subpoena. ~~When~~ Except as provided in subsection 4, when a party submits a foreign subpoena to a clerk of court in the State, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

Sec. B-5. 14 MRSA §403, sub-§4 is enacted to read:

4. Prohibition. A clerk of court in this State may not issue a subpoena under subsection 2 and must present the request to the court if the attestation submitted under subsection 1-A indicates that the foreign subpoena seeks documents, information, inspection or testimony related to the provision or receipt of or attempted provision or receipt of legally protected health care activity or aiding and assisting legally protected health care activity. After reviewing the request and attestation, if the court finds that the foreign subpoena seeks documents, information, inspection or testimony related to the provision or receipt of or attempted provision or receipt of legally protected health care activity or aiding and assisting legally protected health care activity, the court shall deny the request for issuance of a subpoena and quash any subpoena previously issued by the court in connection with the request unless the court finds that the foreign subpoena seeks documents, information, inspection or testimony related to:

A. An action in a foreign jurisdiction founded in tort, contract or statute brought by the person who sought or received legally protected health care activity, or the person's legal representative, for damages suffered by the person or damages derived from an individual's loss of consortium of the person if a similar claim would exist under the laws of this State;

B. An action in a foreign jurisdiction founded in contract that is brought by a person with a contractual relationship to the individual whose documents or information are the subject of the subpoena if a similar action would exist under the laws of this State;
or

C. An action in a foreign jurisdiction that is brought by a parent involving litigation between parents over custody of a minor child of the parents if the custody dispute

involves legally protected health care activity or aiding and assisting legally protected health care activity for the minor child.

If the court finds that the foreign subpoena seeks documents, information, inspection or testimony as provided in paragraph A, B or C, the court shall direct the clerk to issue the subpoena.

PART C

Sec. C-1. 15 MRSA §203, sub-§5 is enacted to read:

5. Exception; legally protected health care activity. Notwithstanding any provision of state law to the contrary and except as required by federal law, the Governor may not surrender a person charged in another state as a result of the person's engaging in legally protected health care activity or aiding and assisting legally protected health care activity unless the executive authority of the demanding state alleges in writing that the accused was physically present in the demanding state at the time of the commission of the alleged offense and that thereafter the accused fled from the demanding state. For purposes of this subsection, "aiding and assisting legally protected health care activity" and "legally protected health care activity" have the same meanings as in Title 14, section 9002, subsections 1 and 8, respectively.

Sec. C-2. 16 MRSA §642, sub-§3 is enacted to read:

3. Exception; legally protected health care activity. Notwithstanding any provision of state law to the contrary and except as required by federal law, a justice, judge or justice of the peace may not issue a search warrant permitting a government entity to obtain electronic device content information directly from a provider of electronic communication service or remote computing service that relates to an investigation into legally protected health care activity or aiding and assisting legally protected health care activity. For purposes of this subsection, "aiding and assisting legally protected health care activity" and "legally protected health care activity" have the same meanings as in Title 14, section 9002, subsections 1 and 8, respectively.

PART D

Sec. D-1. 5 MRSA §90-B, sub-§1, ¶B, as amended by PL 2021, c. 649, §1, is further amended to read:

B. "Application assistant" means an employee of a state or local agency or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic violence, sexual assault, stalking or human trafficking or to minor victims of kidnapping or that provides services related to legally protected health care activity who has been designated by the respective agency and trained, accepted and registered by the secretary to assist individuals in the completion of program participation applications.

Sec. D-2. 5 MRSA §90-B, sub-§1, ¶B-1 is enacted to read:

B-1. "Covered health care practitioner" has the same meaning as in Title 10, section 8012, subsection 1, paragraph B.

Sec. D-3. 5 MRSA §90-B, sub-§1, ¶C-1 is enacted to read:

C-1. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8.

Sec. D-4. 5 MRSA §90-B, sub-§1, ¶F-1 is enacted to read:

F-1. "Reproductive or gender-affirming health care services practitioner" means a person who in the person's capacity as a covered health care practitioner engages in legally protected health care activity.

Sec. D-5. 5 MRSA §90-B, sub-§2, as amended by PL 2021, c. 649, §2, is further amended to read:

2. Program established. The Address Confidentiality Program is established to protect victims of domestic violence, sexual assault, stalking or human trafficking ~~and~~; minor victims of kidnapping; and reproductive or gender-affirming health care services practitioners by authorizing the use of designated addresses for such victims and practitioners. The program is administered by the secretary under the following application and certification procedures.

A. Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor or a guardian acting on behalf of an incapacitated person may apply to the secretary to have a designated address assigned by the secretary to serve as the person's address or the address of the minor or incapacitated person.

B. The secretary may approve an application only if it is filed with the office of the secretary in the manner established by rule and on a form prescribed by the secretary. A completed application must contain:

- (1) The application preparation date, the applicant's signature and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;
- (2) A designation of the secretary as agent for purposes of service of process and for receipt of first-class mail;
- (3) The mailing address where the applicant may be contacted by the secretary or a designee and the telephone number or numbers where the applicant may be called by the secretary or the secretary's designee; and
- (4) One or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.

C. Upon receipt of a properly completed application, the secretary may certify the applicant as a program participant. A program participant is certified for 4 years following the date of initial certification unless the certification is withdrawn or invalidated before that date. The secretary shall send notification of lapsing certification and a reapplication form to a program participant at least 4 weeks prior to the expiration of the program participant's certification.

D. The secretary shall forward first-class mail to the appropriate program participants.

E. A person who violates this paragraph commits a Class E crime.

- (1) An applicant may not file an application knowing that it:

- (a) Contains false or incorrect information; or
 - (b) Falsely claims that disclosure of the applicant's address or mailing address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made.
- (2) An application assistant may not assist or participate in the filing of an application that the application assistant knows:
- (a) Contains false or incorrect information; or
 - (b) Falsely claims that disclosure of the applicant's address or mailing address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made.

PART E

Sec. E-1. 10 MRSA §8012 is enacted to read:

§8012. Legally protected health care activity

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

A. "Aiding and assisting legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 1.

B. "Covered health care practitioner" has the same meaning as "health care practitioner" in Title 24, section 2502, subsection 1-A, except that "covered health care practitioner" does not include a veterinarian. "Covered health care practitioner" also includes persons licensed under:

- (1) Title 32, chapter 18;
- (2) Title 32, chapter 32;
- (3) Title 32, chapter 83;
- (4) Title 32, chapter 117; and
- (5) Title 32, chapter 119.

C. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8.

D. "Professional discipline" means the issuance of a letter of guidance or concern; a warning, censure or reprimand; a license or registration denial, nonrenewal, suspension or revocation; a civil penalty for violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; the imposition of conditions of probation upon an applicant, licensee or registrant; or the execution of a consent agreement with the consent of an applicant, licensee or registrant.

2. Professional discipline prohibited. Notwithstanding any provision of state law to the contrary and except as required by federal law, the commissioner; the Director of the Office of Professional and Occupational Regulation within the department; any agency, bureau, board or commission within or affiliated with the department; and the Department

of Health and Human Services may not subject a covered health care practitioner to professional discipline based solely on:

A. The covered health care practitioner's engaging in legally protected health care activity or aiding and assisting legally protected health care activity;

B. A criminal action, civil action or professional discipline action in another state against the covered health care practitioner that is based on the covered health care practitioner engaging in legally protected health care activity or aiding and assisting legally protected health care activity; or

C. Conviction of a crime or any civil judgment or professional discipline in this State or another state against the covered health care practitioner based solely on a violation of another state's law prohibiting legally protected health care activity or aiding and assisting legally protected health care activity.

3. Confidentiality. Notwithstanding any provision of state law to the contrary and except when public disclosure is authorized by federal law or another state law, the portions of a record of a conviction of a crime in this State or another state, any civil judgment, arbitration award or settlement agreement from this State or another state or professional discipline imposed in this State or another state that are in the possession of the commissioner; the Director of the Office of Professional and Occupational Regulation within the department; any agency, bureau, board or commission within or affiliated with the department; or, for a licensed electrologist, the Department of Health and Human Services are confidential to the extent that the criminal conviction, civil judgment, arbitration award or settlement agreement or professional discipline is based on the covered health care practitioner's engaging in legally protected health care activity or aiding and assisting legally protected health care activity.

Sec. E-2. 24 MRSA §2513 is enacted to read:

§2513. Legally protected health care activity

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

A. "Adverse action" means the reduction of, restriction of, suspension of, denial of, revocation of or failure to grant or renew a covered health care practitioner's membership, clinical privileges, clinical practice authority, professional certification or participation on a provider panel by a health care provider or health care entity.

B. "Aiding and assisting legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 1.

C. "Covered health care practitioner" has the same meaning as in Title 10, section 8012, subsection 1, paragraph B.

D. "Formal disciplinary action" means the reduction of, restriction of, suspension of, denial of, revocation of or failure to grant or renew a covered health care practitioner's membership in a professional society.

E. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8.

F. "Professional discipline" has the same meaning as in Title 10, section 8012, subsection 1, paragraph D.

2. Prohibited actions of health care entity or health care provider. A health care entity or health care provider within this State may not take any adverse action against a covered health care practitioner solely as a result of:

A. The covered health care practitioner's engaging in legally protected health care activity or aiding and assisting legally protected health care activity;

B. An adverse action or formal disciplinary action in another state against the covered health care practitioner based on the covered health care practitioner's engaging in legally protected health care activity or aiding and assisting legally protected health care activity; or

C. Professional discipline imposed on the covered health care practitioner by another state's professional licensing board, agency or organization based on the covered health care practitioner's engaging in legally protected health care activity or aiding and assisting legally protected health care activity.

Sec. E-3. 24-A MRSA §2159-F, as enacted by PL 2023, c. 345, §1, is amended to read:

§2159-F. ~~Discrimination based solely on provision of reproductive health care services in medical malpractice insurance~~ based solely on legally protected health care activity

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

A. "Adverse action" means revocation, suspension or other disciplinary action against a health care professional's license.

~~B. "Health care professional who provides reproductive health care services" means a health care professional who provides, authorizes, recommends, aids, assists, refers for or otherwise participates in an abortion or any other reproductive health care services provided for the purpose of an abortion performed on an individual.~~

C. "Aid and assist legally protected health care activity" and "aiding and assisting legally protected health care activity" have the same meanings as in Title 14, section 9002, subsection 1.

D. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8.

2. Discrimination prohibited. An insurer that provides medical malpractice insurance in this State may not refuse to issue or renew coverage, cancel or restrict coverage, impose any sanctions, fines, penalties or rate increases or require the payment of additional charges by a health care professional who ~~provides reproductive health care services~~ engages in legally protected health care activity or aids and assists legally protected health care activity on the sole basis that the health care professional is acting in violation of another state's law related to legally protected health care activity or aiding and assisting legally protected health care activity or is subject to an adverse action against the health care professional's license in another state for a violation of that state's law related

to legally protected health care activity or aiding and assisting legally protected health care activity.

3. Action based on adverse action in another state prohibited. An insurer that provides medical malpractice insurance in this State may not refuse to issue or renew coverage, cancel or restrict coverage or require the payment of additional charges by a health care professional who ~~provides reproductive health care services~~ engages in legally protected health care activity or aids and assists legally protected health care activity as a result of an adverse action against the health care professional's license in another state if the adverse action is solely based on a violation of the other state's law ~~that prohibits abortion and any related reproductive health care services in that state or for a resident of that state~~ related to legally protected health care activity or aiding and assisting legally protected health care activity.

Sec. E-4. 24-A MRSA §4301-A, sub-§1-A is enacted to read:

1-A. Aids and assists legally protected health care activity. "Aids and assists legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 1.

Sec. E-5. 24-A MRSA §4301-A, sub-§5-A is enacted to read:

5-A. Gender-affirming health care services. "Gender-affirming health care services" has the same meaning as in Title 14, section 9002, subsection 4.

Sec. E-6. 24-A MRSA §4301-A, sub-§8-A is enacted to read:

8-A. Legally protected health care activity. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8.

Sec. E-7. 24-A MRSA §4301-A, sub-§17-A is enacted to read:

17-A. Reproductive health care services. "Reproductive health care services" has the same meaning as in Title 14, section 9002, subsection 9.

Sec. E-8. 24-A MRSA §4303, sub-§2, ¶B, as amended by PL 2015, c. 84, §1, is further amended to read:

B. All credentialing decisions, including those granting, denying or withdrawing credentials, must be in writing. The provider must be provided with all reasons for the denial of an application for credentialing or the withdrawal of credentials. A withdrawal of credentials must be treated as a provider termination and is subject to the requirements of ~~subsection~~ subsections 3-A and 3-C.

Sec. E-9. 24-A MRSA §4303, sub-§3, ¶A, as enacted by PL 1995, c. 673, Pt. C, §1 and affected by §2, is amended to read:

A. For the purposes of this section, "to advocate for medically appropriate health care" means to discuss or recommend a course of treatment, including gender-affirming health care services and reproductive health care services, to an enrollee; to appeal a managed care plan's decision to deny payment for a service, including gender-affirming health care services and reproductive health care services, pursuant to an established grievance or appeal procedure; or to protest a decision, policy or practice that the provider, consistent with the degree of learning and skill ordinarily possessed by reputable providers, reasonably believes impairs the provider's ability to provide

medically appropriate health care, including gender-affirming health care services and reproductive health care services, to the provider's patients.

Sec. E-10. 24-A MRSA §4303, sub-§3-C is enacted to read:

3-C. Provider's right to engage in legally protected health care activity. A carrier offering or renewing a health plan in this State may not terminate or nonrenew a contract with a participating provider or impose any monetary penalties or financial disincentives on a participating provider on the sole basis that the participating provider engages in legally protected health care activity or aids and assists legally protected health care activity.

PART F

Sec. F-1. 22 MRSA §1711-C, sub-§1, ¶A-2 is enacted to read:

A-2. "Aiding and assisting legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 1.

Sec. F-2. 22 MRSA §1711-C, sub-§1, ¶B-1 is enacted to read:

B-1. "Gender-affirming health care services" has the same meaning as in Title 14, section 9002, subsection 4.

Sec. F-3. 22 MRSA §1711-C, sub-§1, ¶G-1 is enacted to read:

G-1. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8.

Sec. F-4. 22 MRSA §1711-C, sub-§1, ¶G-2 is enacted to read:

G-2. "Reproductive health care services" has the same meaning as in Title 14, section 9002, subsection 9.

Sec. F-5. 22 MRSA §1711-C, sub-§8, as amended by PL 2011, c. 373, §2, is repealed and the following enacted in its place:

8. Prohibited disclosure. Disclosure of health care information is prohibited as follows.

A. A health care practitioner, facility or state-designated statewide health information exchange may not disclose health care information for the purpose of marketing or sales without written or oral authorization for the disclosure.

B. Notwithstanding any provision of this section to the contrary and except as provided in paragraph C, a health care practitioner, facility or state-designated statewide health information exchange may not disclose any of the following in a civil or administrative action or proceeding or in response to a subpoena issued in a civil or administrative action or proceeding unless authorized in writing by the individual or the individual's authorized representative or pursuant to a court order issued by a court of competent jurisdiction in this State upon a showing of good cause, as long as the court order limits the use and disclosure of records and includes sanctions for misuse of records or sets forth other methods to ensure confidentiality:

(1) Any communication about reproductive health care services or gender-affirming health care services made to the health care practitioner, facility or state-designated statewide health information exchange from the individual or anyone

acting on behalf of the individual, including an authorized representative of the individual; and

(2) Any information obtained through a personal examination of an individual relating to reproductive health care services or gender-affirming health care services.

C. Paragraph B does not apply if:

(1) The communication or information to be disclosed relates to an individual who is a plaintiff in a medical malpractice action and the health care practitioner, facility or state-designated statewide health information exchange from which the communication or information is requested is a defendant in the medical malpractice action;

(2) The communication or information to be disclosed is requested by a professional licensing board that licenses health care practitioners in this State and the request relates to and is made in connection with a complaint investigation. This subparagraph does not apply if the complaint is based solely on an allegation that a licensee of the board provided reproductive health care services or gender-affirming health care services that are legally protected health care activity or aiding and assisting legally protected health care activity within the licensee's scope of practice; or

(3) The communication or information to be disclosed is requested by the United States Department of Justice, a law enforcement agency of this State or a political subdivision of this State or any other federal agency or agency of this State that pursuant to statute is responsible for investigating abuse, neglect or exploitation and the request is made in connection with an investigation of abuse, neglect or exploitation of a child pursuant to the Child and Family Services and Child Protection Act or of an incapacitated or dependent adult pursuant to the Adult Protective Services Act.

D. This subsection may not be construed to impede the lawful disclosure of information to another health care practitioner or facility for diagnosis, treatment or care of individuals or to complete the responsibilities of a health care practitioner or facility that provides diagnosis, treatment or care of individuals or to impede the lawful disclosure of information to an insurer or payor related to the treatment provided by a health care practitioner or facility or to the payment or operations of a health care practitioner or facility.

PART G

Sec. G-1. Construction. This Act may not be construed to conflict with or in any way amend the Uniform Child Custody Jurisdiction and Enforcement Act, Maine Revised Statutes, Title 19-A, chapter 58.