



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1426

S.P. 440

In Senate, April 7, 2011

**An Act Concerning Notification to an Employer of Misrepresented
Medical Information under the Maine Human Rights Act**

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator GOODALL of Sagadahoc.

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

2 **Sec. 1. 5 MRSA §4572, sub-§2, ¶C**, as enacted by PL 1995, c. 393, §13, is
3 amended to read:

4 C. A covered entity may require a medical examination after an offer of employment
5 has been made to a job applicant and prior to the commencement of the employment
6 duties of the applicant and may condition an offer of employment on the results of the
7 examination, if:

8 (1) All entering employees are subjected to the same examination regardless of
9 disability;

10 (2) Information obtained regarding the medical condition or history of the
11 applicant is collected and maintained on separate forms and in separate medical
12 files and is treated as a confidential medical record, except that:

13 (a) Supervisors and managers may be informed regarding necessary
14 restrictions on the work or duties of the employee and necessary
15 accommodations;

16 (b) First aid and safety personnel may be informed, when appropriate, if the
17 disability might require emergency treatment; ~~and~~

18 (c) Government officials investigating compliance with this Act are provided
19 relevant information on request; and

20 (d) Supervisors, managers and members of an employer's management team
21 may be informed regarding any misrepresentation, untruthful statement or
22 omission of information by the applicant or employee on any medical form,
23 record or file; and

24 (3) The results of the examination are used only in accordance with this Act.

25 **SUMMARY**

26 Under current law, information obtained through a so-called "post-offer,
27 preemployment physical" may be shared with supervisors and managers only for
28 purposes of informing supervisors and managers about work restrictions or
29 accommodations necessary for that employee. This bill authorizes such disclosure for the
30 additional purpose of informing supervisors, managers and members of an employer's
31 management team of any misrepresentation, untruthful statement or omission of
32 information by the applicant or employee on any medical form, record or file.