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STATE OF MAINE
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127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 978, L.D. 1434, Bill, "An Act To Amend the Laws Governing Law Enforcement's Access to, and Access to Information about, Certain Persons in Hospitals and Mental Health Facilities"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 22 MRSA §1711-C, sub-§6, ¶E-2 is enacted to read:

E-2. To federal, state or local governmental entities if the health care practitioner or facility that is providing diagnosis, treatment or care to an individual has determined in the exercise of sound professional judgment that the disclosure is required by section 1726;

Sec. 2. 22 MRSA §1726 is enacted to read:

§1726. Cooperation with law enforcement

A hospital licensed under chapter 404 or 405 shall make a good faith effort to cooperate with law enforcement agencies as provided in this section.

1. Service of protection from abuse order. A law enforcement agency may request that a hospital provide access to a defendant who is receiving care in the hospital for the purpose of serving a protection from abuse order pursuant to Title 19-A, section 4006, subsection 6.

A. The hospital shall provide the law enforcement agency with an opportunity to serve the defendant personally with the order at a time the hospital determines is clinically appropriate with due consideration to the medical condition of the defendant.

B. A hospital may disclose that the defendant is a patient to facilitate service under this section regardless of patient consent.

COMMITTEE AMENDMENT

1 **2. Notice of upcoming release.** A law enforcement agency may request that a
2 hospital provide notice to the law enforcement agency that a person is to be released from
3 the hospital so that the law enforcement agency may arrest the person.

4 A. The hospital shall provide notice that the person is to be released from the
5 hospital if the person was transported or was caused to be transported to the hospital
6 by the law enforcement agency.

7 B. The information contained in the notice provided by the hospital must be no more
8 than the minimum amount necessary to satisfy the requirements of this subsection.

9 **3. Required consistency with federal requirements.** A hospital may provide
10 access under subsection 1 and information under subsection 2 only if the request is
11 consistent with the provisions of 45 Code of Federal Regulations, Section 164.512 (2015)
12 and 42 Code of Federal Regulations, Part 2 (2015).

13 **4. Immunity; no cause of action.** A hospital, hospital agent, employee or other
14 person who in good faith and without gross negligence provides access or information to
15 a law enforcement agency as required by this section or cooperates in an investigation or
16 a criminal or judicial proceeding related to the requirements of this section is immune
17 from civil and criminal liability and professional licensure action arising out of or related
18 to compliance with this section. This section does not create a cause of action against the
19 hospital, hospital agent, employee or other person for failure to comply with this section.'

20 SUMMARY

21 This amendment replaces the bill. It authorizes a hospital to disclose otherwise
22 confidential health information of a patient without the consent of the patient under
23 specific circumstances:

24 1. For the purpose of assisting a law enforcement agency to serve a protection from
25 abuse order to a person who is a patient in the hospital; or

26 2. For the purpose of notifying a law enforcement agency that brought a patient to
27 the hospital that the patient is leaving the hospital so that the agency may arrest the
28 patient.

29 The hospital may provide this information only if the request from law enforcement
30 is consistent with the federal Health Insurance Portability and Accountability Act of 1996
31 privacy regulations, 45 Code of Federal Regulations, Section 164.512 (2015) and the
32 federal privacy regulations for drug and alcohol abuse patients, 42 Code of Federal
33 Regulations, Part 2 (2015).

34 The hospital is immune from civil or criminal liability or professional licensure
35 action arising out of the hospital's compliance with this law. No cause of action against
36 the hospital is created for failure to provide the access or information.