

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

'An Act To Facilitate the Hiring of Health Care Personnel during Emergency Circumstances'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 22 MRSA §816, sub-§1-A is enacted to read:

1-A. Health care workforce. A private institution is immune from civil penalties and liability for any actions arising from allegations of inadequate investigation prior to that institution's hiring or engagement of a licensed health care worker, including but not limited to allegations of negligent hiring, credentialing or privileging, for services provided within the scope of that health care worker's licensure in response to an extreme public health emergency as defined in section 801, subsection 4-A or a disaster as defined in Title 37-B, section 703, subsection 2 as long as the private institution hires or engages the services of the licensed health care worker in accordance with this subsection. When hiring or engaging the services of a health care worker:

A. The private institution shall first make a reasonable attempt to contact the appropriate occupational or professional licensing board within or affiliated with the Department of Professional and Financial Regulation for any available information about that health care worker; and

B. A private institution may rely on:

(1) Information available from the occupational and professional licensing boards within or affiliated with the Department of Professional and Financial Regulation regarding appropriate screening of the worker, such as background investigation, primary source verification or credentialing;

(2) The representation of a volunteer health care worker registry that is operated or certified in accordance with federal or state requirements regarding appropriate screening of the worker that is registered on that registry, such as background investigation, primary source verification or credentialing;

(3) The representation of the employing or privileging entity regarding appropriate screening of the worker that, at the time of hiring or engagement, is employed or privileged by any entity in any state, such as background investigation, primary source verification, credentialing or privileging; or

(4) The representation of a retired or unemployed worker's most recent employer or privileging entity if that employment or privileging occurred within the previous 24 months.

A private institution that complies with this subsection may hire or engage the services of a licensed health care worker and is deemed in compliance with all state licensing standards. The private institution shall initiate the standard preemployment screening process within 48 hours of the official termination of the extreme public health emergency as defined in section 801, subsection 4-A or disaster as defined in Title 37-B, section 703, subsection 2.

Sec. 2. 37-B MRSA §784-A, as enacted by PL 2001, c. 614, §18, is amended to read:

§ 784-A. Right to call for and employ assistance

The Maine Emergency Management Agency and local organizations for emergency management may employ any person considered necessary to assist with emergency management activities. All persons called and employed for assistance shall proceed as directed by the Maine Emergency Management Agency. Any person called and employed for assistance is deemed to be an employee of the State for purposes of immunity from liability pursuant to section 822 and for purposes of workers' compensation insurance pursuant to section 823, except for persons excluded from the definition of employee pursuant to Title 39-A, section 102, subsection 11. A health care worker licensed in this State, either designated by the Maine Emergency Management Agency to perform emergency management or health activities in this State in a declared disaster or civil emergency pursuant to section 742 or designated by the Maine Emergency Management Agency to render aid in another state under chapter 16, is deemed to be an employee of the State for purposes of immunity from liability pursuant to this section and section 926 and for purposes of workers' compensation insurance pursuant to sections 823 and 928, except for persons excluded from the definition of employee pursuant to Title 39-A, section 102, subsection 11.'

SUMMARY

This amendment deletes from the extension of the immunity provided in the bill actions taken pursuant to the declaration of a health emergency declared by the Commissioner of Health and Human Services.

This amendment requires private institutions, such as hospitals, to first check for information about a health care worker with the appropriate licensing board within or affiliated with the Department of Professional and Financial Regulation. It also extends the immunity provided in the bill to private institutions that rely on the information provided by occupational and professional licensing boards that are within or affiliated with the Department of Professional and Financial Regulation.

This amendment extends immunity provided in the bill to private institutions that rely on a registry that is operated or certified in accordance with federal requirements.

This amendment deletes from the bill the private institution's immunity when relying on an individual's own representation of status, preemployment screening or privileging review.

This amendment requires that the licensing credentials confirmation process start within 48 hours of the end of the declared emergency or disaster.

This amendment provides that a person licensed as a health care worker in the State is eligible for civil immunity and workers' compensation insurance coverage during the period the person engages in either an in-state or out-of-state emergency management response under the direction of the Maine Emergency Management Agency. The immunity and workers' compensation insurance provided are effective only during the period in which either a disaster or civil emergency declaration as declared

pursuant to the Maine Revised Statutes, Title 37-B, section 742 or an emergency response pursuant to the Emergency Management Assistance Compact is in effect. In the event the volunteer health care worker participates in an emergency response within this State, the immunity provided is the same as that provided to public employees under the Maine Tort Claims Act. In the event the volunteer health care worker participates in an out-of-state emergency response by this State pursuant to the Emergency Management Assistance Compact, the volunteer is considered an agent of this State for purposes of civil liability. In the event of either an in-state or out-of-state emergency response, the volunteer health care worker is considered an employee of this State for purposes of workers' compensation insurance coverage.