

## 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

**Legislative Document** 

No. 1672

H.P. 1199

House of Representatives, May 2, 2019

An Act Regarding the Admissibility of Certain Health Care Records as Evidence

Reference to the Committee on Judiciary suggested and ordered printed.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative BAILEY of Saco.

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

Sec. 1. 16 MRSA §357, as amended by PL 2011, c. 335, §1, is repealed and the following enacted in its place:

## §357. Health care records and copies of records

4

7

8

19

20

21

22 23

24

- 5 <u>1. Definitions.</u> As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
  - A. "Health care entity" has the same meaning as in Title 22, section 1718-B, subsection 1, paragraph B.
- 9 B. "Health care practitioner" has the same meaning as in Title 24, section 2502, subsection 1-A.
- 11 <u>C. "Health care provider" has the same meaning as in Title 24, section 2502, subsection 2.</u>
- D. "Medical entity" means a health care entity, health care practitioner, health care provider, pharmacist or pharmacy.
- E. "Pharmacist" has the same meaning as in Title 32, section 13702-A, subsection 22.
- F. "Pharmacy" has the same meaning as in Title 32, section 13702-A, subsection 24.
- 18 <u>G. "Records" includes itemized bills.</u>
  - 2. Records admissible. Records kept by medical entities licensed under the laws of this State and records that the court finds are required by the laws of any other state or territory, or the District of Columbia, or by federal laws and regulations pertaining to the Department of Defense and the Department of Veterans Affairs or kept by medical entities similarly conducted or operated or that offer treatment free of charge are admissible in the courts of this State as evidence of:
- A. The fair and reasonable charge for such services or the necessity of services or treatments;
- B. The diagnosis provided by the medical entity;
- 28 C. The prognosis provided by the medical entity;
- D. The opinion provided by the medical entity regarding the proximate cause of the condition diagnosed by the medical entity; and
- E. The opinion provided by the medical entity regarding any disability or incapacity proximately resulting from the condition diagnosed by the medical entity.
- The court shall admit copies of records if certified by the persons having custody of those
- records as being true and complete, but nothing contained in those records is admissible
- as evidence on the issue of liability. Copies of photographic or microphotographic
- records kept by medical entities, when duly certified by the person in charge of the
- 37 medical entity, must be admitted in evidence equally with the original photographs or
- 38 microphotographs.

3. Results reflecting presence of alcohol, drugs. Notwithstanding subsection 2, the result of a laboratory or any other test kept by a hospital or other medical facility that reflects an alcohol level, a detectable urine-drug level, a detectable blood-drug level or a drug concentration of either blood or urine may not be excluded as evidence in a criminal or civil proceeding by reason of any claim of confidentiality or privilege and may be admitted as long as the result is relevant and reliable evidence if the proceeding is one in which the operator of a motor vehicle, snowmobile, all-terrain vehicle or watercraft is alleged to have operated under the influence of intoxicating liquor or drugs and the court is satisfied that probable cause exists to believe that the operator committed the offense charged.

11 SUMMARY

This bill makes changes to the law governing the admissibility of health care records as evidence in court. It specifies that records, including itemized bills, kept by health care practitioners, health care entities, health care providers, pharmacists and pharmacies may be admissible in court as evidence of (1) the fair and reasonable charge for such services or the necessity of services or treatments; (2) the diagnosis provided by the medical entity; (3) the prognosis provided by the medical entity; (4) the opinion provided by the medical entity; and (5) the opinion provided by the medical entity regarding any disability or incapacity proximately resulting from the condition diagnosed by the medical entity.