

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

An Act To Support Medical Practice Protocols in Patient Care

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

Sec. 1. 24 MRSA c. 21, sub-c. 9-A is enacted to read:

SUBCHAPTER 9-A

Medical practice protocols

§ 2981. Practice protocols; presumption that the standard of medical care has been met

1. Establishment of practice protocols. The Maine Quality Forum, established in Title 24-A, section 6951, may develop practice protocols in any medical specialty area. The practice protocols must define appropriate clinical indications and methods of treatment within the medical specialty area and must be consistent with appropriate standards of care and levels of quality. The Maine Quality Forum shall consult with the Maine Quality Forum Advisory Council established in Title 24-A, section 6952, the Board of Licensure in Medicine, the Board of Osteopathic Licensure and other relevant medical licensing boards in development of the practice protocols. The Maine Quality Forum shall adopt the practice protocols as major substantive rules under the Maine Administrative Procedure Act.

2. Application to professional negligence claims. In any claim for professional negligence against a health care practitioner or a health care provider in which a violation of the standard of care has been alleged, the defendant may introduce into evidence, as a presumption that the applicable standard of care has been met, practice protocols developed and adopted pursuant to subsection 1. A defendant who pleads compliance with the practice protocols as a presumption that the applicable standard of care has been met and as the basis for a determination that the health care practitioner's or health care provider's conduct did not constitute professional negligence has the burden of proving compliance with those practice protocols by a preponderance of the evidence. If a defendant introduces at trial evidence of compliance with the practice protocols, the plaintiff may introduce evidence on the issue of compliance and to rebut the presumption that the applicable standard of care has been met. This subsection does not affect the plaintiff's burden to prove the plaintiff's cause of action by a preponderance of the evidence as otherwise provided by law.

Sec. 2. 24-A MRSA §2762 is enacted to read:

§ 2762. Coverage may be declined for treatment not consistent with practice protocols

An insurer that issues an individual insurance policy or contract may decline to provide coverage for treatment that is not consistent with practice protocols adopted as rules by the Maine Quality Forum pursuant to Title 24, section 2981 and that is not documented as a reasonable deviation from those practice protocols by a health care practitioner or a health care provider.

Sec. 3. 24-A MRSA §2847-M is enacted to read:

§ 2847-M. Coverage may be declined for treatment not consistent with practice protocols

An insurer that issues a group insurance policy or contract may decline to provide coverage for treatment that is not consistent with practice protocols adopted as rules by the Maine Quality Forum pursuant to Title 24, section 2981 and that is not documented as a reasonable deviation from those practice protocols by a health care practitioner or a health care provider.

Sec. 4. 24-A MRSA §4253 is enacted to read:

§ 4253. Coverage may be declined for treatment not consistent with practice protocols

A carrier or insurer that issues a health maintenance organization individual or group policy, contract or certificate may decline to provide coverage for treatment that is not consistent with practice protocols adopted as rules by the Maine Quality Forum pursuant to Title 24, section 2981 and that is not documented as a reasonable deviation from those practice protocols by a health care practitioner or a health care provider.

SUMMARY

This bill authorizes the Maine Quality Forum to develop practice protocols in any medical specialty area and permits compliance with those practice protocols to be asserted in medical malpractice actions as a presumption that the applicable standard of care has been met.

The bill also allows an insurer to decline to provide coverage for treatment that is not consistent with those practice protocols and that is not documented as a reasonable deviation from those practice protocols by a health care practitioner or a health care provider.