

Draft Amendment

LD 1740

An Act to Amend Laws Relating to Health Care Data.

Rationale:

1. **Include MHDO in the existing State laws that provide protection for the release of HIV and Mental Health data.**
2. **Address feedback from Eastern Maine Health.**

5 MRS 19203 (12). To the Maine Health Data Organization in accordance with 22 MRS Chapter 1683. Before approving the release of any health information protected under this section, the MHDO shall implement a mechanism that allows an individual to choose to not allow the organization to disclose and use the individual's health care information under 22 MRS Chapter 1683.

34-B MRS 1207 (1)(J). Information protected by this section shall be released to Maine Health Data Organization in accordance with 22 MRS Chapter 1683. Before approving the release of any health information protected under this section, the MHDO shall implement a mechanism that allows an individual to choose to not allow the organization to disclose and use the individual's health care information under 22 MRS Chapter 1683 .

§8714. General public access to data; rules

2. General public access; confidentiality. The board shall adopt rules making Information provided to the organization under this chapter available to any person, upon request, except protected health information and other confidential information., as long as an individual is not identified either directly, or through a reidentification process, or through release of information with respect to which there is a reasonable basis to believe the information could be used to identify the individual. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Release of data. The board shall adopt rules for the release of data governing all levels of information in the form of de-identified data, limited data sets and protected health information. All uses of released data are governed by the following principles of release:

- A. Release of protected health information must be limited to only information that is necessary for the stated purpose of the release;
- B. Data releases must be governed by data use agreements that provide adequate privacy and security measures;

C. Follow-up must be provided to ensure data are used as specified and that no protected health information is publicly revealed. The board shall adopt rules providing for any necessary data suppression; and

D. Release of more protected health information than a limited data set as described in 45 Code of Federal Regulations, Section 164.514(e) must be approved by the board consistent with state and federal laws.

§8717. Covered entities' access to protected health information

1. Permitted uses and disclosures; definitions. The organization may disclose protected health information without authorization by the subject of the information for the treatment activities of any health care provider, the payment activities of a covered entity and of any health care provider or the health care operations of a covered entity or its business associates involving either quality or competency assurance activities or fraud and abuse detection and compliance activities, if the covered entity has ~~or had~~ a relationship with the subject of the information and the protected health information pertains to the relationship. For the purposes of this section:

3. Choice regarding disclosure of information. Before approving the release of any protected health information under this **Chapter** ~~section~~, the organization shall implement a mechanism that allows an individual to choose to not allow the organization to disclose and use the individual's health care information under this **Chapter, section**.