

# Maine

## Shield Law Fact Sheet

AUGUST 2024

---

For both reproductive and gender-affirming care, Maine’s shield laws provide protections against out-of-state investigations and prosecutions, professional discipline, and civil liability. Additionally, Maine’s shield laws provide protections for health care providers’ professional liability insurance and the privacy of medical information related to reproductive and gender-affirming care.

### **PROTECTION AGAINST OUT-OF-STATE INVESTIGATIONS AND PROSECUTIONS**

#### **Protection Barring State Agency/Employee Assistance**

Except as required by federal law, state agencies, including law enforcement agencies, and people acting on their behalf may not knowingly provide any information or use any resources in furtherance of an interstate investigation seeking to impose liability for “legally protected health care activity,” including receiving or providing reproductive and gender-affirming health care services lawful in Maine, or aiding and assisting legally protected health care activity.<sup>1</sup>

#### **Protection against Extradition and Arrests**

Except as required by federal law, arrests related to criminal liability for legally protected health care activity are prohibited.<sup>2</sup> Additionally, the Governor may not surrender a person charged in another state as a result of engaging in or aiding and assisting legally protected health care activity unless the demanding state alleges in writing that the accused was physically present in the demanding state at the time of the commission of the alleged offense and then fled from that state.<sup>3</sup>

---

<sup>1</sup> LD 227 (Me. 2024) (14 Me. Rev. Stat. § 9006).

<sup>2</sup> LD 227 (Me. 2024) (15 Me. Rev. Stat. § 203).

<sup>3</sup> LD 227 (Me. 2024) (15 Me. Rev. Stat. § 203).

## Protection against Issuance of Search Warrants, Subpoenas, and Witness Summons

Maine courts may not order a person to give testimony or produce documents or other information in any legal action where liability is based on legally protected health care activity,<sup>4</sup> and may not issue a subpoena seeking documents, information, or testimony related to legally protected health care activity.<sup>5</sup> Maine courts also may not issue a summons or warrant in another state’s prosecution or investigation involving legally protected health care activity.<sup>6</sup> Additionally, except as required by federal law, search warrants may not be issued to obtain information from electronic communication providers or remote computing services relating to an investigation into legally protected health care activity.<sup>7</sup>

## PROTECTION FROM PROFESSIONAL DISCIPLINE

### Protection against Adverse Actions related to Providers’ Licenses and Other Board Discipline

A health care practitioner may not be subject to professional discipline based solely on engaging or aiding and assisting in legally protected health care activity, or based on an action or conviction in another state against the practitioner based on engaging or aiding and assisting in legally protected health care activity.<sup>8</sup>

## PROTECTION AGAINST CIVIL LIABILITY

### Protection against Application or Enforcement of Another State’s Laws or Judgments in Maine State Court

Maine law governs in any case or controversy heard in Maine involving legally protected health care activity or aiding and assisting legally protected health care activity.<sup>9</sup> Further, Maine courts may not give any force or effect to any out-of-state judgment where liability is based on legally protected health care activity if the court that issued the judgment did not have personal or subject matter jurisdiction, or provide due process of law.<sup>10</sup>

---

<sup>4</sup> LD 227 (Me. 2024) (14 Me. Rev. Stat. § 9005).

<sup>5</sup> LD 227 (Me. 2024) (14 Me. Rev. Stat. § 403).

<sup>6</sup> LD 227 (Me. 2024) (14 Me. Rev. Stat. § 9005).

<sup>7</sup> LD 227 (Me. 2024) (16 Me. Rev. Stat. § 642).

<sup>8</sup> LD 227 (Me. 2024) (10 Me. Rev. Stat. § 8012).

<sup>9</sup> LD 227 (Me. 2024) (14 Me. Rev. Stat. § 9007).

<sup>10</sup> LD 227 (Me. 2024) (14 Me. Rev. Stat. § 9004).

## Provision of a “Clawback Lawsuit” to Recover Damages from Litigation related to Protected Care

A person may bring a civil action to recover damages, attorney’s fees, and costs against a person who engages in “hostile litigation”—any legal action where liability is based on legally protected health care activity.<sup>11</sup>

## PROTECTION OF PROFESSIONAL LIABILITY INSURANCE AND PROTECTION RELATED TO HEALTH PLANS

### Protection against an Insurer’s Refusal to Issue Insurance, Increase in Premiums, or Denial of Coverage Based Solely on Providing Protected Care

An insurer that provides medical malpractice in Maine may not refuse to issue or renew coverage, cancel or restrict coverage, or impose any sanctions, fines, penalties or rate increases upon a health care professional on the sole basis that they engage or assist in reproductive health care services in violation of another state’s law, or based solely on an adverse action in another state resulting from providing reproductive health care services.<sup>12</sup>

### Protection of Contracts with Health Plans and Insurers

Carriers offering or renewing a health plan may not terminate a contract or impose monetary penalties on a provider on the sole basis that the provider engages or aids and assists in legally protected health care activity.<sup>13</sup>

## PRIVACY OF MEDICAL INFORMATION AND OTHER DATA RELATED TO ABORTION AND GENDER-AFFIRMING CARE

### Protection Against Disclosure of Medical Information

A health care practitioner, facility, or health information exchange may not disclose in a civil or administrative action or in response to a subpoena any patient communication or any information obtained through personal examination of the patient related to reproductive health care or gender-affirming health care services.<sup>14</sup>

### Protection Against Disclosure of Providers’ Personal Information

Reproductive or gender-affirming health care services practitioners may apply for inclusion in the state’s address confidentiality program.<sup>15</sup>

---

<sup>11</sup> LD 227 (Me. 2024) (14 Me. Rev. Stat. § 9003).

<sup>12</sup> LD 616 (Me. 2023) (24 Me. Rev. Stat. § 2159-F).

<sup>13</sup> LD 227 (Me. 2024) (24-A Me. Rev. Stat. § 4303).

<sup>14</sup> LD 227 (Me. 2024) (22 Me. Rev. Stat. § 1711-C).

<sup>15</sup> LD 227 (Me. 2024) (5 Me. Rev. Stat. § 90-B).

---

## Protection Against Disclosure of Data by Businesses Providing Electronic Communications

As noted above, search warrants may not be issued to obtain information from electronic communication providers relating to an investigation into legally protected health care activity.<sup>16</sup>

---

<sup>16</sup> LD 227 (Me. 2024) (16 Me. Rev. Stat. § 642).

---

## ABOUT THE CENTER ON REPRODUCTIVE HEALTH, LAW, AND POLICY (CRHLP)

CRHLP is a nationwide think tank and research center created to meet the current national crisis in access to abortion while working towards long-term solutions to advance reproductive justice. CRHLP conducts analysis and research for legal, policy, and narrative change and serves as a trusted hub for convening and engaging academics, advocates, health care providers, policy makers, and community members to reimagine the landscape of reproductive health law and policy. CRHLP also trains the reproductive law and policy leaders of tomorrow. CRHLP is committed to the highest standards of independent inquiry, academic excellence, and rigor. Research findings and conclusions are never altered to accommodate other interests, including those of funders, other organizations, or government bodies and officials.

### For more information

[law.ucla.edu/academics/centers/center-reproductive-health-law-and-policy](https://law.ucla.edu/academics/centers/center-reproductive-health-law-and-policy)

[crhlp@law.ucla.edu](mailto:crhlp@law.ucla.edu)

To receive pro bono legal assistance on questions related to the shield laws or other reproductive rights or justice issues, email: [larj@law.ucla.edu](mailto:larj@law.ucla.edu)