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An Act Concerning Notification to an Employer of Misrepresented Medical Information under the Maine Human Rights Act

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

Sec. 1. 5 MRSA §4572, sub-§2, ¶C, as enacted by PL 1995, c. 393, §13, is amended to read:

C. A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of the applicant and may condition an offer of employment on the results of the examination, if:

- (1) All entering employees are subjected to the same examination regardless of disability;
- (2) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:
 - (a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
 - (b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; ~~and~~
 - (c) Government officials investigating compliance with this Act are provided relevant information on request; and
 - (d) Supervisors, managers and members of an employer's management team may be informed regarding any misrepresentation, untruthful statement or omission of information by the applicant or employee on any medical form, record or file; and
- (3) The results of the examination are used only in accordance with this Act.

SUMMARY

Under current law, information obtained through a so-called "post-offer, preemployment physical" may be shared with supervisors and managers only for purposes of informing supervisors and managers about work restrictions or accommodations necessary for that employee. This bill authorizes such disclosure for the additional purpose of informing supervisors, managers and members of an employer's

management team of any misrepresentation, untruthful statement or omission of information by the applicant or employee on any medical form, record or file.