

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

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 34-B MRSA §1207, sub-§4**, as enacted by PL 1983, c. 459, §7, is repealed.

**Sec. 2. 34-B MRSA §1207, sub-§4-A** is enacted to read:

**4-A. Violation.** Disclosure of client information in violation of this section is an offense under the licensing standards of the mental health professional committing the violation and must be promptly reported to the licensing board with jurisdiction for review, hearing and disciplinary action.

**Sec. 3. 34-B MRSA §1207, sub-§5**, as amended by PL 1995, c. 560, Pt. K, §19, is repealed.

**Sec. 4. 34-B MRSA §1207, sub-§5-A** is enacted to read:

**5-A. Disclosure to family, caretakers.** Under the following circumstances, a licensed mental health professional providing care to an adult client may disclose to a family member, to another relative, to a close personal friend or caretaker of the client or to anyone identified by the client, the client's health information that is directly relevant to the person's involvement with the client's care.

A. If a client with capacity to make health care decisions is either present or available prior to disclosure, the professional may disclose the information:

(1) When the client gives oral or written consent;

(2) When the client does not object in circumstances in which the client has the opportunity to object; or

(3) When the professional may reasonably infer from the circumstances that the client does not object.

B. The professional may disclose the information if in the professional's judgment it is in the client's best interests to make the disclosure and the professional determines either that the client lacks the capacity to make health care decisions or an emergency precludes the client from participating in the disclosure.

**Sec. 5. 34-B MRSA §1207, sub-§6**, as enacted by PL 1997, c. 422, §2, is repealed.

**Sec. 6. 34-B MRSA §1207, sub-§6-A** is enacted to read:

**6-A. Disclosure of danger.** A licensed mental health professional may disclose protected health information that the professional believes is necessary to avert a serious and imminent threat to health or safety when the disclosure is made in good faith to any person, including a target of the threat, who is reasonably able to prevent or minimize the threat.'

### **SUMMARY**

This amendment replaces the bill but carries out the original intent to allow a mental health professional to disclose protected health information about a patient when necessary to avert a serious and imminent threat to health or safety if the disclosure is made in good faith and to a person who is reasonably able to prevent or minimize the threat. It also allows a mental health professional to disclose a client's mental health information to a family member, to another relative, to a close personal friend or caretaker or to anyone identified by the client in circumstances consistent with disclosure under the federal Health Insurance Portability and Accountability Act.

This amendment repeals the designation as a Class D crime for violations and instead provides that a violation of the section subjects a mental health professional to the disciplinary procedures under the regulatory requirements for that profession.

### **FISCAL NOTE REQUIRED**

**(See attached)**