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An Act To Permit Mental Health Professionals To Disclose Risks to People Likely To Be Harmed by a Patient

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

Sec. 1. 34-B MRSA §1207, sub-§4, as enacted by PL 1983, c. 459, §7, is repealed.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 K, §19, is repealed.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Sec. 5. 34-B MRSA §1207, sub-§6, as enacted by PL 1997, c. 422, §2, is repealed.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.

PUBLIC Law, Chapter 310 LD 1119, item 1, 123rd Maine State Legislature
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Effective September 20, 2007