CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER 1

DEFINITIONS

§1001. Definitions

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 459, §7 (NEW).]

1. Chief administrative officer. "Chief administrative officer" means the head of a state institution or the head of any other institution which provides services which fall under the jurisdiction of the department.
[PL 1983, c. 459, §7 (NEW).]

1-A. Adult developmental services. "Adult developmental services" means any support or assistance provided, licensed or funded in whole or in part by the department pursuant to chapter 5 or 6 to an adult with an intellectual disability or autism.
[PL 2011, c. 542, Pt. A, §60 (NEW).]

2. Client. "Client" means a person receiving services from the department, from any state institution or from any agency licensed or funded to provide services falling under the jurisdiction of the department.
[PL 1995, c. 560, Pt. K, §8 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF).]

3. Commissioner. "Commissioner" means the Commissioner of Health and Human Services or the commissioner's designee, except that when the term "commissioner and only the commissioner" is used, the term applies only to the person appointed Commissioner of Health and Human Services and not to any designee.
[PL 1995, c. 560, Pt. K, §9 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2003, c. 689, Pt. B, §7 (REV).]

4. Department. "Department" means the Department of Health and Human Services.
[PL 1983, c. 459, §7 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

4-A. Office of advocacy.
[PL 2005, c. 519, Pt. RR, §1 (RP); PL 2005, c. 519, Pt. RR, §4 (AFF).]

4-B. Intermediate care facility for persons with intellectual disabilities. "Intermediate care facility for persons with intellectual disabilities" means an intermediate care facility for the mentally retarded as defined in Section 1905(d) of the federal Social Security Act, 42 United States Code, Section 1396d(d) and its implementing regulations.
[PL 2011, c. 542, Pt. A, §60 (NEW).]

4-C. 9-8-8. "9-8-8" means the telephone number designated as the universal telephone number within the United States for the purpose of the national suicide prevention and mental health crisis hotline system operating through the 9-8-8 suicide and crisis lifeline.
[PL 2025, c. 610, §1 (NEW).]

4-D. 9-8-8 suicide and crisis lifeline. "9-8-8 suicide and crisis lifeline" means a national network of local crisis services that provide free and confidential emotional support to people in suicidal crisis, behavioral health crisis or emotional distress 24 hours a day, 7 days a week in the United States. The

9-8-8 suicide and crisis lifeline, or its successor, is the national suicide prevention and mental health crisis hotline system maintained by the Office of the Assistant Secretary for Mental Health and Substance Use under the federal Public Health Service Act, 42 United States Code, Section 290bb-36c. [PL 2025, c. 610, §2 (NEW).]

5. Parking area. "Parking area" means land maintained by the State at the state institutions under the jurisdiction of the department, which may be designated as parking areas by the heads of the state institutions.
[PL 1983, c. 459, §7 (NEW).]

6. Public way. "Public way" means a road or driveway on land maintained by the State at the state institutions under the jurisdiction of the department.
[PL 1983, c. 459, §7 (NEW).]

7. Resident. "Resident" means a person residing in a state institution or in any other institution which provides services which fall under the jurisdiction of the department.
[PL 1983, c. 459, §7 (NEW).]

8. State institution. "State institution" means:

A. The Riverview Psychiatric Center; [PL 1983, c. 459, §7 (NEW); PL 2005, c. 236, §4 (REV).]

B. The Dorothea Dix Psychiatric Center; or [PL 2005, c. 236, §3 (REV); PL 2005, c. 457, Pt. NN, §1 (AMD); PL 2005, c. 457, Pt. NN, §8 (AFF).]

C. [PL 1995, c. 395, Pt. G, §10 (RP); PL 1995, c. 395, Pt. G, §20 (AFF).]

D. Before October 1, 2008, the Elizabeth Levinson Center. [PL 2007, c. 539, Pt. N, §57 (AMD).]

E. [PL 2005, c. 457, Pt. NN, §2 (RP); PL 2005, c. 457, Pt. NN, §8 (AFF).]

F. [PL 1997, c. 393, Pt. A, §39 (RP).]

F. [PL 1995, c. 560, Pt. K, §10 (RP).]

G. [PL 1995, c. 560, Pt. K, §11 (NEW); MRSA T. 34-B §1001, sub-§8, ¶G (RP).]

H. [PL 2005, c. 457, Pt. NN, §3 (RP); PL 2005, c. 457, Pt. NN, §8 (AFF).]
[PL 2007, c. 539, Pt. N, §57 (AMD).]

9. Written political material. "Written political material" means flyers, handbills or other nonperiodical publications which are subject to the restrictions of Title 21-A, chapter 13.
[PL 1985, c. 506, Pt. A, §70 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 506, §A70 (AMD). PL 1993, c. 410, §CCC9 (AMD). RR 1995, c. 2, §82 (COR). PL 1995, c. 395, §G10 (AMD). PL 1995, c. 395, §G20 (AFF). PL 1995, c. 550, §§1,2 (AMD). PL 1995, c. 560, §§K8-11,82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 393, §§A38,39 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §§B6,7 (REV). PL 2005, c. 236, §§3,4 (REV). PL 2005, c. 457, §§NN1-3,OO1 (AMD). PL 2005, c. 457, §§NN8,OO5 (AFF). PL 2005, c. 519, §RR1 (AMD). PL 2005, c. 519, §RR4 (AFF). PL 2007, c. 539, Pt. N, §57 (AMD). PL 2011, c. 542, Pt. A, §60 (AMD). PL 2025, c. 610, §§1, 2 (AMD).

SUBCHAPTER 2

DEPARTMENT

§1201. Establishment

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). RR 1995, c. 2, §83 (COR). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §§1,3 (AMD). PL 2007, c. 539, Pt. N, §58 (RP).

§1201-A. Service delivery regions

(REPEALED)

SECTION HISTORY

PL 1991, c. 781, §D2 (NEW). PL 1991, c. 781, §D4 (AFF). PL 1995, c. 560, §§K12,13 (AMD). PL 2005, c. 397, §A42 (AMD). PL 2007, c. 539, Pt. N, §59 (RP).

§1201-B. Joint location of services

(REPEALED)

SECTION HISTORY

PL 1993, c. 738, §F2 (NEW). PL 2007, c. 539, Pt. N, §60 (RP).

§1202. Office of the commissioner

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). RR 1995, c. 2, §84 (COR). PL 1995, c. 368, §§GG2,3 (AMD). PL 1995, c. 395, §§C2,3 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 439, §§J4,J5 (AMD). PL 2003, c. 689, §B7 (REV). PL 2007, c. 539, Pt. N, §61 (RP).

§1203. Duties of the commissioner

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 503, §2 (AMD). PL 1987, c. 744, §12 (AMD). PL 1989, c. 335, §1 (AMD). PL 1995, c. 15, §1 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1995, c. 560, §L13 (AMD). PL 1995, c. 560, §L16 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 236, §§3,4 (REV). PL 2007, c. 80, §1 (AMD). PL 2007, c. 539, Pt. N, §62 (RP).

§1203-A. Licenses for the provision of mental health services

Licenses to operate, conduct or maintain an agency or facility for the provision of mental health services as defined in section 3601 or for the provision of treatment as defined in chapter 6, subchapter 2, including facilities that are private nonmedical institutions, are governed as follows. [PL 2003, c. 673, Pt. V, §6 (AMD); PL 2003, c. 673, Pt. V, §29 (AFF).]

1. Full license. Full licenses are governed as follows.

A. The commissioner shall issue a full license to an applicant agency or facility that has complied with:

(1) All applicable laws and rules; and

(2) All conditions imposed by the commissioner at the time of issuance of a conditional license, refusal to issue or renew a full license or revocation of a full license. [PL 1989, c. 227, §1 (NEW).]

B. A full license is issued for a term of 2 years. [PL 2015, c. 267, Pt. RR, §4 (AMD).]

C. When a full licensee fails to comply with applicable laws and rules, the commissioner may:

(1) File a complaint with the District Court to have the license revoked, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375; or

(2) Modify the full license to a conditional license in accordance with subsection 2. [PL 1989, c. 227, §1 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

[PL 2015, c. 267, Pt. RR, §4 (AMD).]

2. Conditional license. Conditional licenses are governed as follows.

A. The commissioner may issue a conditional license to an agency or facility applying or reapplying for a provisional or full license, if:

(1) The applicant fails to comply with applicable laws and rules; and

(2) In the judgment of the commissioner, the best interests of the public would be served by issuance of a conditional license. [PL 2025, c. 305, Pt. A, §7 (AMD).]

B. The commissioner may modify an existing full license to a conditional license, after affording the full licensee an opportunity for hearing in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, if:

(1) The applicant fails to comply with applicable laws and rules; and

(2) In the judgment of the commissioner, the best interests of the public would be served. [PL 1989, c. 227, §1 (NEW).]

C. A conditional license shall be issued for a specified period of time, not to exceed one year, or the remaining period of the previous full license, whichever the commissioner determines appropriate based on the nature of the violation of laws or rules. [PL 1989, c. 227, §1 (NEW).]

D. A conditional license shall specify the conditions imposed by the commissioner and shall specify when those conditions shall be complied with during the term of the conditional license. [PL 1989, c. 227, §1 (NEW).]

E. During the period of the conditional license, the licensee shall comply with all conditions imposed by the commissioner. [PL 1989, c. 227, §1 (NEW).]

F. If the conditional licensee fails to comply with conditions imposed by the commissioner, the commissioner may initiate proceedings to revoke, suspend or refuse to renew the conditional license in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1989, c. 227, §1 (NEW).]

[PL 2025, c. 305, Pt. A, §7 (AMD).]

3. Provisional license. Provisional licenses are governed as follows.

A. The commissioner may issue a provisional license to an agency or facility that:

(1) Has not been previously licensed for the type of service for which application is made;

(2) Is temporarily unable to comply with all applicable laws and rules; and

(3) Is in compliance with specific laws and rules determined by the commissioner as essential for the protection of the residents or clients of the agency or facility. [PL 1989, c. 227, §1 (NEW).]

B. To obtain a provisional license, an applicant must demonstrate the ability to comply with all applicable laws and rules by the end of the term of the provisional license. [PL 1989, c. 227, §1 (NEW).]

C. A provisional license shall be issued for a specified period of time, which is at least 3 months but no longer than 12 months, as determined appropriate by the commissioner. [PL 1989, c. 227, §1 (NEW).]

[PL 1989, c. 227, §1 (NEW).]

4. Licensing fees and terms. Except for children's residential care facilities defined in Title 22, section 8101, subsection 4 and licensed in accordance with Title 22, section 8104, fees and terms for licenses under this section are as follows.

A. The application fee for a provisional license may not be less than $100 nor more than $280. The term of a provisional license is established pursuant to subsection 3, paragraph C. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

B. The application fee for a full license may not be less than $100 nor more than $280. The term of a full license is for 2 years. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

C. The fee for the biennial renewal of a full license may not be less than $70 nor more than $170. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

D. The processing fee to add a service site to an issued license may not be less than $35 nor more than $70. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

E. The processing fee to add a service to an issued license may not be less than $70 nor more than $140. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

F. A licensee under this section shall maintain a valid license. An issued license is not valid when the information on the license is no longer accurate. A processing fee not to exceed $10 must be paid to the department to secure a reissued license with accurate information. The fee applies to each license replaced. The reissued license must have the same expiration date as the replaced license. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

G. The transaction fee for the electronic renewal of a license may not be less than $25 nor more than $50 for the electronic renewal of a license. The transaction fee may not exceed the cost of providing the electronic renewal service. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

H. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2015, c. 267, Pt. RR, §5 (NEW).]

[PL 2015, c. 267, Pt. RR, §5 (AMD).]

5. Monitoring for compliance. Regardless of the term of the license, the commissioner shall monitor the licensee, at least once every 2 years, for continued compliance with applicable laws and rules.

[PL 2025, c. 305, Pt. A, §8 (AMD).]

6. Appeals. Any person aggrieved by a final action of the commissioner under this section may obtain judicial review in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

[PL 1989, c. 227, §1 (NEW).]

7. Prohibited acts. Prohibited acts under this section are governed as follows.

A. An agency is guilty of unlicensed operation of a mental health service facility if it operates, conducts or maintains such a facility, not otherwise licensed as a hospital or medical care facility, without a license from the commissioner. [PL 1989, c. 227, §1 (NEW).]

B. Notwithstanding Title 17-A, sections 4-A, 1704 and 1705, unlicensed operation of a mental health service facility is punishable by a fine of not more than $500 or by imprisonment for not more than 60 days. [PL 2019, c. 113, Pt. C, §108 (AMD).]

[PL 2019, c. 113, Pt. C, §108 (AMD).]

8. National accreditation. An agency or facility required to obtain a license under this section that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this subsection in response to a complaint against the agency or facility.
[PL 2011, c. 145, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 227, §1 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 369, §1 (AMD). PL 2003, c. 369, §2 (AFF). PL 2003, c. 673, §V6 (AMD). PL 2003, c. 673, §V29 (AFF). PL 2011, c. 145, §3 (AMD). PL 2015, c. 267, Pt. RR, §§4, 5 (AMD). PL 2019, c. 113, Pt. C, §108 (AMD). PL 2023, c. 89, §6 (AMD). PL 2025, c. 305, Pt. A, §§7, 8 (AMD).

§1203-B. Licenses for agencies that provide services to adults with certain conditions

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agency" means a firm, association, corporation or nonprofit organization. [PL 2023, c. 89, §7 (NEW).]

B. "Related condition" means a condition that meets the definition of 42 Code of Federal Regulations, Section 435.1010 in effect January 1, 2023. [PL 2023, c. 89, §7 (NEW).]
[PL 2023, c. 89, §7 (NEW).]

2. License required. An agency that provides a service, if the service provided is funded in whole or in part by the department, to an adult with an intellectual disability, autism spectrum disorder, a related condition or an acquired brain injury, including a service provided under Title 22, section 3089, may not provide that service without a license issued by the department as provided by this section. This section applies to:

A. A provider of services regarding case management or care coordination, home support, community support, employment support, personal support and residential services; and [PL 2023, c. 89, §7 (NEW).]

B. A residential care facility that provides a setting for an adult with an intellectual disability, autism spectrum disorder, a related condition or an acquired brain injury. [PL 2023, c. 89, §7 (NEW).]
[PL 2023, c. 89, §7 (NEW).]

2-A. Licensing fees and terms. Fees and terms for licenses under this section are as follows.

A. The application fee for a provisional license may not be less than $100 nor more than $280. The term of a provisional license is established pursuant to subsection 5, paragraph B. [PL 2025, c. 388, Pt. XX, §1 (NEW).]

B. The application fee for a full license may not be less than $100 nor more than $280. The term of a full license is for 2 years. [PL 2025, c. 388, Pt. XX, §1 (NEW).]

C. The fee for the biennial renewal of a full license may not be less than $70 nor more than $170. [PL 2025, c. 388, Pt. XX, §1 (NEW).]

D. The processing fee to add a service site to an issued license may not be less than $35 nor more than $70. [PL 2025, c. 388, Pt. XX, §1 (NEW).]

E. The processing fee to add a service to an issued license may not be less than $70 nor more than $140. [PL 2025, c. 388, Pt. XX, §1 (NEW).]

F. A licensee under this section shall maintain a valid license. An issued license is not valid when the information on the license is no longer accurate. A processing fee not to exceed $10 must be paid to the department to secure a reissued license with accurate information. The fee applies to each license replaced. The reissued license must have the same expiration date as the replaced license. [PL 2025, c. 388, Pt. XX, §1 (NEW).]

G. The transaction fee for the electronic renewal of a license may not be less than $25 nor more than $50. The transaction fee may not exceed the cost of providing the electronic renewal service. [PL 2025, c. 388, Pt. XX, §1 (NEW).]

The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2025, c. 388, Pt. XX, §1 (NEW).]

3. Full license. Full licenses under this section are governed as follows.

A. The department may issue a full license to or renew a full license for an applicant that the department determines has complied with all applicable laws and rules. [PL 2023, c. 89, §7 (NEW).]

B. A full license has a term not to exceed 2 years. [PL 2023, c. 89, §7 (NEW).]
[PL 2023, c. 89, §7 (NEW).]

4. Conditional license. Conditional licenses under this section are governed as follows.

A. The department may issue a conditional license to an agency applying for or renewing a provisional or full license if:

(1) The applicant fails to comply with applicable laws and rules; and

(2) In the judgment of the department, the best interests of the public would be served by issuance of a conditional license. [PL 2025, c. 305, Pt. A, §9 (AMD).]

B. A conditional license has a term for a specified period of time not to exceed one year or the remaining period of the full license, if the applicant has a full license and has applied for renewal, as determined by the department. The department shall determine the period of the license based on the severity of the laws or rules violated by the conditional licensee. The department shall specify the conditions imposed by the department and when the conditional licensee must comply with those conditions. [PL 2023, c. 89, §7 (NEW).]

C. If a conditional licensee fails to comply with conditions imposed by the department, the department may initiate proceedings to revoke, suspend or refuse to renew the conditional license in accordance with Title 5, chapter 375. [PL 2023, c. 89, §7 (NEW).]
[PL 2025, c. 305, Pt. A, §9 (AMD).]

5. Provisional license. Provisional licenses under this section are governed as follows.

A. The department may issue a provisional license to an agency that:

(1) Has not previously operated as an agency serving an individual with an intellectual disability, autism spectrum disorder, a related condition or an acquired brain injury;

(2) Complies with all applicable laws and rules, except those that can be complied with only once the applicant serves clients; and

(3) Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term. [PL 2023, c. 89, §7 (NEW).]

B. A provisional license has a term for a specified period of time of at least 3 months but no longer than 12 months, as determined by the department. [PL 2023, c. 89, §7 (NEW).]

[PL 2023, c. 89, §7 (NEW).]

6. Qualifications for license. The department shall establish qualifications for a license issued under this section, including qualifications regarding:

A. General requirements; [PL 2023, c. 89, §7 (NEW).]

B. Professional personnel; [PL 2023, c. 89, §7 (NEW).]

C. Paraprofessional personnel; [PL 2023, c. 89, §7 (NEW).]

D. Treatment, services and the coordination of treatment and services; [PL 2023, c. 89, §7 (NEW).]

E. Supervision of professional and nonprofessional personnel; [PL 2023, c. 89, §7 (NEW).]

F. Organizational structure, including lines of authority; [PL 2023, c. 89, §7 (NEW).]

G. Clinical records; [PL 2023, c. 89, §7 (NEW).]

H. Business records; and [PL 2023, c. 89, §7 (NEW).]

I. Other aspects of providing a service to an individual with an intellectual disability, autism spectrum disorder, a related condition or an acquired brain injury that may be necessary to protect the public. [PL 2023, c. 89, §7 (NEW).]

[PL 2023, c. 89, §7 (NEW).]

7. License not assignable or transferable. A license issued under this section is not assignable or transferable. A license is immediately void if ownership or control of the agency changes.

[PL 2023, c. 89, §7 (NEW).]

8. Quality assurance and technical assistance. The department may perform programmatic review of a licensee, monitor, audit and provide technical assistance to a licensee and otherwise ensure that a licensee is compliant with standards of operation set forth by the department. The department may:

A. Issue a notice of deficiency for failure to comply with applicable state statutes or rules or federal regulations; and [PL 2023, c. 89, §7 (NEW).]

B. Require licensees to submit and comply with acceptable plans of corrective action to remedy the deficiency for which notice was issued under paragraph A. [PL 2023, c. 89, §7 (NEW).]

The department shall monitor each licensee for continued compliance with applicable laws and rules at least every 2 years.

[PL 2023, c. 89, §7 (NEW).]

9. Confidentiality of records. A department record that contains personally identifiable information or health information and that is created or obtained in connection with the department's licensing or quality assurance powers under this section is confidential, with the exceptions of a notice of deficiency, a plan of corrective action and a final action with respect to a license or a quality assurance activity.

[PL 2023, c. 89, §7 (NEW).]

10. Right of entry; investigation. The department has the right to enter and inspect the premises of an agency licensed by the department under this section, an agency requesting a license from the department under this section or an agency the department determines is operating without a license required by this section.

A. The department has the right to inspect and copy any books, accounts, papers, records and other documents in order to determine the state of an agency's compliance with applicable laws and rules. [PL 2023, c. 89, §7 (NEW).]

B. The department must enter the premises at a reasonable time. [PL 2023, c. 89, §7 (NEW).]

C. To inspect an agency that the department knows or believes to be operating without a license, the department may enter only with the permission of the owner or person in charge or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court authorizing entry and inspection. An owner or operator of an agency that is unlicensed may not interfere with, impede or obstruct an investigation by the department. [PL 2023, c. 89, §7 (NEW).]

[PL 2023, c. 89, §7 (NEW).]

11. Enforcement. The following provisions govern enforcement of this section.

A. When an applicant or licensee fails to comply with applicable laws and rules or a plan of corrective action, the department may refuse to issue or renew the license or may impose one or more of the following sanctions if the department determines that a sanction is necessary and appropriate to ensure compliance with applicable laws or rules or to protect an individual served by an agency. The department may direct the licensee or applicant to:

(1) Stop all new admissions or intake of new clients, regardless of payment source, until the department determines that corrective action has been taken; and

(2) Correct any deficiencies in a manner and within a time frame that the department determines is appropriate to ensure compliance with applicable laws or rules or to protect a client of the licensee or applicant. [PL 2023, c. 89, §7 (NEW).]

B. If, at the expiration of a full or provisional license or during the term of a full license, a licensee fails to comply with applicable laws and rules and, in the judgment of the department, the best interest of the public would be served by the issuance of a conditional license, the department may issue a conditional license or change a full license to a conditional license. [PL 2023, c. 89, §7 (NEW).]

C. A license issued under this section may be suspended or revoked for violation of applicable laws and rules; committing, permitting, aiding or abetting any illegal practices in the operation of the agency; or conduct or practices detrimental to the welfare of persons living in or attending a facility operated by the agency. [PL 2023, c. 89, §7 (NEW).]

D. When the department determines that a license should be suspended or revoked, the department shall file a complaint with the District Court as provided in Title 5, chapter 375. [PL 2023, c. 89, §7 (NEW).]

E. The department may petition the Superior Court to appoint a receiver to operate an agency in the same manner as for a long-term care facility under Title 22, chapter 1666-A. [PL 2023, c. 89, §7 (NEW).]

F. The department may impose a penalty on a licensee for a violation of this section. The department shall establish a schedule of penalties according to the nature of the violation. Each day of violation constitutes a separate offense. [PL 2023, c. 89, §7 (NEW).]

G. The department may impose a penalty on an agency required to be licensed under this section that is operating without the required license. The minimum penalty for operating without a license is $500 per day but not more than $10,000 in total. [PL 2023, c. 89, §7 (NEW).]

[PL 2023, c. 89, §7 (NEW).]

12. Appeals. A person aggrieved by a final action of the department under this section may obtain judicial review in accordance with Title 5, chapter 375. A final action for purposes of this subsection includes:

A. Issuing a conditional license; [PL 2023, c. 89, §7 (NEW).]

B. Amending or modifying a license; [PL 2023, c. 89, §7 (NEW).]

C. Refusing to issue or renew a full license; [PL 2023, c. 89, §7 (NEW).]

D. Refusing to issue a provisional license; and [PL 2023, c. 89, §7 (NEW).]

E. Imposing a sanction. [PL 2023, c. 89, §7 (NEW).]

[PL 2023, c. 89, §7 (NEW).]

13. Rules. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2023, c. 89, §7 (NEW).]

14. Transitional provisions.

[PL 2023, c. 89, §7 (NEW); MRSA T. 34-B §1203-B, sub-§14 (RP).]

SECTION HISTORY

PL 2023, c. 89, §7 (NEW). PL 2025, c. 305, Pt. A, §9 (AMD). PL 2025, c. 388, Pt. XX, §1 (AMD).

§1204. Powers of the commissioner

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 729, §7 (AMD). PL 1983, c. 816, §C2 (AMD). PL 1985, c. 503, §3 (AMD). PL 1985, c. 785, §B162 (AMD). PL 1989, c. 265, §2 (AMD). PL 1989, c. 501, §P29 (AMD). PL 1989, c. 933, §§1,2 (AMD). PL 1991, c. 567, §1 (AMD). PL 1991, c. 711, §5 (AMD). PL 1993, c. 410, §§CCC10,11 (AMD). PL 1993, c. 667, §1 (AMD). PL 1995, c. 368, §GG4 (AMD). PL 1995, c. 395, §§C4,G11 (AMD). PL 1995, c. 395, §G20 (AFF). PL 1995, c. 560, §§K14-17 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1995, c. 691, §3 (AMD). PL 1997, c. 676, §5 (AMD). PL 1999, c. 731, §L2 (AMD). PL 2001, c. 194, §1 (AMD). PL 2001, c. 439, §§J6,7 (AMD). PL 2001, c. 493, §1 (AMD). PL 2005, c. 236, §§3,4 (REV). PL 2007, c. 286, §1 (AMD). PL 2007, c. 539, Pt. N, §63 (RP).

§1205. Office of Advocacy

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1987, c. 744, §§13-15 (AMD). PL 1989, c. 7, §N3 (RPR). PL 1989, c. 731, §§1-3 (AMD). PL 1995, c. 560, §K18 (AMD). PL 2005, c. 397, §§A43-46 (AMD). PL 2005, c. 457, §OO2 (AMD). PL 2005, c. 457, §OO5 (AFF). PL 2005, c. 519, §RR2 (RPR). PL 2005, c. 519, §RR4 (AFF). PL 2007, c. 356, §4 (RP). PL 2007, c. 356, §31 (AFF).

§1206. Office of Children's Services

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 503, §4 (RP).

§1207. Confidentiality of information

1. Generally. All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any client shall be kept confidential and may not be disclosed by any person, except that:

A. A client, a client's legal guardian, if any, or, if the client is a minor, the client's parent or legal guardian may give informed written consent to the disclosure of information; [RR 2019, c. 2, Pt. B, §86 (COR).]

B. Information may be disclosed if necessary to carry out the statutory functions of the department; the hospitalization provisions of chapter 3, subchapter 4; the purposes of section 3608; the purposes of Title 5, section 19506; the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; the investigation and hearing pursuant to Title 15, section 393, subsection 4-A; or the provision of mental health services by the Department of Corrections pursuant to Title 34-A, section 3031, 3069-A or 3069-B; [PL 2017, c. 475, Pt. A, §57 (AMD).]

B-1. [PL 2005, c. 397, Pt. A, §48 (RP).]

B-2. [PL 2007, c. 466, Pt. A, §56 (RP).]

B-3. [PL 2017, c. 475, Pt. A, §58 (RP).]

C. Information may be disclosed if ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; [PL 1983, c. 459, §7 (NEW).]

C-1. Within 48 hours of a death reportable by the commissioner to the Chief Medical Examiner pursuant to Title 22, section 3025, subsection 1, paragraph E, the commissioner shall provide information on that death to the chairs of the joint standing committee of the Legislature having jurisdiction over health and human services matters. Within 30 days of the reportable death, the commissioner shall provide the members of the committee with a copy of the death report. Information and reports provided pursuant to this paragraph must maintain the confidentiality of the identity of all persons mentioned or referred to in the information and reports. [PL 1997, c. 605, §1 (NEW).]

D. Nothing in this subsection precludes disclosure, upon proper inquiry, of information relating to the physical condition or mental status of a client to that client's spouse or next of kin; [RR 2019, c. 2, Pt. B, §87 (COR).]

E. Nothing in this subsection precludes the disclosure of biographical or medical information concerning a client to commercial or governmental insurers, or to any other corporation, association or agency from which the department or a licensee of the department may receive reimbursement for the care and treatment, education, training or support of the client, if the recipient of the information uses it for no other purpose than to determine eligibility for reimbursement and, if eligibility exists, to make reimbursement; [PL 1989, c. 335, §2 (AMD).]

F. Nothing in this subsection precludes the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any client in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, as long as, in the disclosure or use of the information as part of a course of instruction or training program, the client's identity remains undisclosed; [PL 2011, c. 691, Pt. A, §39 (AMD).]

G. [PL 2011, c. 691, Pt. A, §40 (RP).]

H. The names and dates of death of individuals who died while patients at the Augusta Mental Health Institute, the Bangor Mental Health Institute, the Dorothea Dix Psychiatric Center, the Riverview Psychiatric Center or the Pineland Hospital and Training Center may be made available

to the public in accordance with rules adopted by the department. The rules must require the department to notify the public regarding the release of the information and to maintain the confidentiality of information concerning any deceased individual whose surviving relatives notify the department that they object to public disclosure. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and [PL 2015, c. 189, §1 (AMD).]

I. Nothing in this subsection precludes the disclosure of any information, except psychotherapy notes as defined in 45 Code of Federal Regulations, Section 164.501(2010), concerning a client to a state-designated statewide health information exchange that provides and maintains an individual protection mechanism by which a client may choose to opt in to allow the state-designated statewide health information exchange to disclose that client's health care information covered under this section to a health care practitioner or health care facility for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to a client at all times.

A state-designated statewide health information exchange may disclose a client's health care information covered under this section even if the client has not chosen to opt in to allow the state-designated statewide health information exchange to disclose the individual's health care information when, in a health care provider's judgment, disclosure is necessary to:

(1) Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or

(2) Prevent or respond to imminent and serious harm to the client and disclosure is to a provider for diagnosis or treatment. [PL 2011, c. 347, §11 (NEW).]

[RR 2019, c. 2, Pt. B, §§86, 87 (COR).]

2. Statistical compilations and research. Confidentiality of records used for statistical compilations or research is governed as follows.

A. Persons engaged in statistical compilation or research may have access to treatment records of clients when needed for research, if:

(1) The access is approved by the chief administrative officer of the mental health facility or the chief administrative officer's designee;

(2) The research plan is first submitted to and approved by the chief administrative officer of the mental health facility, or the chief administrative officer's designee, where the person engaged in research or statistical compilation is to have access to communications and records; and

(3) The records are not removed from the mental health facility that prepared them, except that data that do not identify clients or coded data may be removed from a mental health facility if the key to the code remains on the premises of the facility. [RR 2019, c. 2, Pt. B, §88 (COR).]

B. The chief administrative officer of the mental health facility and the person doing the research shall preserve the anonymity of the client and may not disseminate data that refer to the client by name, number or combination of characteristics that together could lead to the client's identification. [RR 2019, c. 2, Pt. B, §88 (COR).]

[RR 2019, c. 2, Pt. B, §88 (COR).]

3. Use by the commissioner. Confidentiality of information and records used by the commissioner for administration, planning or research is governed as follows.

A. A facility or a provider that receives funds from the department to provide services for persons eligible for such services under this Title shall send information and records to the commissioner, if requested by the commissioner pursuant to the department's obligation to maintain the overall responsibility for the care and treatment of persons receiving mental health services funded in full or in part by the State. [PL 2011, c. 542, Pt. A, §61 (RPR).]

B. The commissioner may collect and use the information and records for administration, planning or research, under the following conditions.

(1) The use of the information is subject to subsection 1, paragraph C.

(2) Data identifying particular clients by means other than case number or code shall be removed from all records and reports of information before issuance from the mental health facility which prepared the records and reports.

(3) A code shall be the exclusive means of identifying clients and shall be available to the commissioner and only the commissioner.

(4) The key to the code shall remain in the possession of the issuing facility and shall be available to the commissioner and only the commissioner.

(5) Members of the department may not release or disseminate to any other person, agency or department of government any information which refers to a client by name, numbers, address, birth date or other characteristics or combination of characteristics which could lead to the client's identification, except as otherwise required by law. [PL 1983, c. 459, §7 (NEW).]

[PL 2011, c. 542, Pt. A, §61 (AMD).]

4. Prohibited acts.

[PL 2007, c. 310, §1 (RP).]

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.
[PL 2007, c. 310, §2 (NEW).]

5. Permitted disclosure.

[PL 2007, c. 310, §3 (RP).]

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. [PL 2007, c. 310, §4 (NEW).]

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. [PL 2007, c. 310, §4 (NEW).]

[PL 2007, c. 310, §4 (NEW).]

6. Duty to provide information.
[PL 2007, c. 310, §5 (RP).]

6-A. Disclosure of danger. A licensed mental health professional shall 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.
[PL 2009, c. 451, §7 (AMD).]

7. Disclosure to law enforcement. A licensed mental health professional shall disclose protected health information when the disclosure is made in good faith for a law enforcement purpose to a law enforcement officer if the conditions, as applicable, are met as described in 45 Code of Federal Regulations, Section 164.512(f) (2008).
[PL 2009, c. 451, §8 (NEW).]

8. Disclosure of knowledge of firearms. A licensed mental health professional shall notify law enforcement when the notification is made in good faith that the licensed mental health professional has reason to believe that a person committed to a state mental health institute has access to firearms.
[PL 2009, c. 451, §9 (NEW).]

9. Disclosure for care management or coordination of care. Notwithstanding any provision of this section to the contrary, a health care practitioner may disclose without authorization health information for the purposes of care management or coordination of care pertaining to a client as provided in this subsection.

A. Disclosure is permitted to a health care practitioner or health care facility as defined in Title 22, section 1711-C, subsection 1. [PL 2013, c. 326, §2 (NEW).]

B. Disclosure is permitted to a payor or person engaged in payment for health care for the purpose of care management or coordination of care. [PL 2013, c. 326, §2 (NEW).]

C. Disclosure of psychotherapy notes is governed by 45 Code of Federal Regulations, Section 164.508(a)(2). [PL 2013, c. 326, §2 (NEW).]

D. A person who has made a disclosure under this subsection shall make a reasonable effort to notify the individual or the authorized representative of the individual of the disclosure. [PL 2013, c. 326, §2 (NEW).]

[PL 2013, c. 326, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §4 (AMD). PL 1983, c. 626 (AMD). PL 1985, c. 495, §23 (AMD). PL 1985, c. 582 (AMD). PL 1989, c. 7, §N3 (AMD). PL 1989, c. 190 (AMD). PL 1989, c. 335, §§2,3 (AMD). PL 1991, c. 250 (AMD). PL 1993, c. 593, §1 (AMD). PL 1995, c. 497, §5 (AMD). PL 1995, c. 560, §K19 (AMD). PL 1995, c. 691, §4 (AMD). PL 1997, c. 422, §2 (AMD). PL 1997, c. 605, §1 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 563, §§1-3 (AMD). RR 2005, c. 2, §22 (COR). PL 2005, c. 397, §§A47,48 (AMD). PL 2005, c. 683, §A57 (AMD). PL 2007, c. 286, §2 (AMD). PL 2007, c. 310, §§1-6 (AMD). PL 2007, c. 466, Pt. A, §56 (AMD). PL 2007, c. 609, §1 (AMD). PL 2007, c. 670, §17 (AMD). PL 2009, c. 415, Pt. A, §20 (AMD). PL 2009, c. 451, §§7-9 (AMD). PL 2011, c. 347, §§9-11 (AMD). PL 2011, c. 420, Pt. C, §§6, 7 (AMD). PL 2011, c. 542, Pt. A, §61 (AMD). PL 2011, c. 691, Pt. A, §§39, 40 (AMD). PL 2013, c. 132, §1 (AMD). PL 2013, c. 326, §2 (AMD). PL 2013, c. 434, §§7, 8 (AMD). PL 2015, c. 189, §1 (AMD). PL 2015, c. 329, Pt. A, §§21, 22 (AMD). PL 2017, c. 93, §1 (AMD). PL 2017, c. 147, §§6, 7 (AMD). PL 2017, c. 475, Pt. A, §§57, 58 (AMD). RR 2019, c. 2, Pt. B, §§86-88 (COR).

§1208. Agreements with community agencies

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Agreement" means a legally binding document between 2 parties, including documents commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid. [PL 1983, c. 459, §7 (NEW).]

B. "Community agency" means a person, a public or private nonprofit organization or a firm, partnership or business corporation operated for profit, which operates a human service program at the community level. [PL 1983, c. 459, §7 (NEW).]

C. "Funds" means any and all general funds, dedicated funds, fees, special revenue funds, 3rd party reimbursements, vendor payments or other funds available for expenditure by the department in support of the provision of a human service. [PL 1983, c. 459, §7 (NEW).]

D. "Human service" means any children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, child and adult developmental, poverty, public assistance, rehabilitation, social, substance use disorder, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure by the department. [PL 2017, c. 407, Pt. A, §156 (AMD).]

E. "Nonprofit organization" means any agency, institution or organization which is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and which has a territory of operations that may extend to a neighborhood, community, region or the State. [PL 1983, c. 459, §7 (NEW).]

F. "Public" means municipal, county and other governmental bodies which are political subdivisions within the State. [PL 1983, c. 459, §7 (NEW).]

G. "State agency client" has the same meaning as in Title 20-A, section 1, subsection 34-B. [PL 2023, c. 449, §10 (AMD).]

H. "Service provider" means a community agency providing services for children with mental health needs, intellectual disabilities or autism. [PL 2011, c. 542, Pt. A, §63 (AMD).]

[PL 2023, c. 449, §10 (AMD).]

2. Commissioner's powers. The commissioner may disburse funds to a community agency for the purpose of financially supporting a human service, only if the disbursement is covered by a written agreement between the department and the agency, specifying at least the following:

A. The human service to be provided by the community agency; [PL 1983, c. 459, §7 (NEW).]

B. The method of payment by the department to the community agency; and [PL 1983, c. 459, §7 (NEW).]

C. The criteria for monitoring and evaluating the performance of the community agency in the provision of the human service. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

3. Commissioner's duties. The commissioner's duties are as follows.

A. The commissioner shall promulgate rules consistent with and necessary for the effective administration of this section. [PL 1983, c. 459, §7 (NEW).]

B. When making agreements with community agencies for the provision of a human service, the commissioner shall use agreement forms and shall develop uniform procedures. [PL 1983, c. 459, §7 (NEW).]

C. When disbursing funds pursuant to an agreement, the commissioner shall require uniform accounts payable forms or uniform supporting documentation and information. [PL 1983, c. 459, §7 (NEW).]

D. When accounting for funds disbursed under an agreement, the commissioner shall use uniform accounting principles, policies and procedures. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

4. Payment for state agency clients. The commissioner shall authorize payment of approved mental health treatment costs for state agency clients who are placed for educational purposes in an in-state residential treatment center, as identified in Title 20-A, section 1, subsection 24-A, paragraph D, subparagraph (3), to the extent of the amount of funds appropriated by the Legislature for this purpose; and may authorize payment of mental health treatment costs for similar placements in out-of-state residential placements on a case-by-case basis, within the limits of available funds. The commissioner shall further authorize payment of approved board and care and mental health treatment costs for state agency clients who are placed for other than educational purposes in any residential placement, as defined in Title 20-A, section 1, subsection 24-A, to the extent of the funds appropriated by the Legislature for this purpose. Payments that the commissioner is required to authorize under this section may not exceed the funds appropriated by the Legislature for the purposes referred to in this subsection. Payment from these funds must be made only when other appropriate state or federal funds to which the department has access have been exhausted.

[PL 1995, c. 560, Pt. K, §20 (AMD).]

5. Annual report. The Department of Health and Human Services shall prepare an annual report on all services contracted with community providers. The department shall deliver its report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 31st of each year. The report shall include:

A. A listing, by community agency, of all funds received from the State and a summary of the purposes for which those funds were expended; [PL 1989, c. 167, §2 (NEW).]

B. A summary of the most recent year's allocations of all funds by bureau, division or office, service area, region and, if available, county; [PL 1993, c. 410, Pt. CCC, §12 (AMD).]

C. An evaluation of additional funding needed to equalize funding among all regions by individual service areas, presented in prioritized order; [PL 1989, c. 167, §2 (NEW).]

D. The department's assessment, by individual service area, of the outstanding service needs of the State. The assessment shall identify the funding source projected by the department to be available for the expansion of service, presented in prioritized order; and [PL 1989, c. 167, §2 (NEW).]

E. Recommendations for changes in funding resulting from the department's planning and evaluation system presented in the following order of priority: greatest service need within existing funding scheme; equalization of regional funding with each service area; and new or outstanding needs. [PL 1989, c. 167, §2 (NEW).]

[PL 1993, c. 410, Pt. CCC, §12 (AMD); PL 1995, c. 560, Pt. K, §82 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

6. Rules.

[PL 2007, c. 539, Pt. N, §64 (RP).]

7. Community agency staff retention. The commissioner shall, through contracts and service agreements with community agencies, provide funding to retain qualified direct-care workers employed by community services agencies providing services for children and adults with intellectual disabilities or autism.

[PL 2011, c. 542, Pt. A, §64 (AMD).]

8. Fees.

[PL 2023, c. 83, §1 (RP).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 789, §§7-9 (AMD). PL 1987, c. 349, §H19 (AMD). PL 1989, c. 41 (AMD). PL 1989, c. 167, §2 (AMD). PL 1989, c. 432 (AMD). PL 1993, c. 410, §CCC12 (AMD). PL 1995, c. 560, §§K20,82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1999, c. 401, §SS1 (AMD). PL 1999, c. 401, §SS4 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 673, §§SSS1,2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 539, Pt. N, §64 (AMD). PL 2011, c. 542, Pt. A, §§62-64 (AMD). PL 2017, c. 407, Pt. A, §156 (AMD). PL 2023, c. 83, §1 (AMD). PL 2023, c. 449, §10 (AMD).

§1208-A. Performance-based contracts

(REPEALED)

SECTION HISTORY

PL 1993, c. 737, §3 (NEW). PL 1995, c. 402, §B3 (AMD). PL 1995, c. 560, §K21 (AMD). PL 1995, c. 560, §K81 (AFF). PL 1995, c. 691, §5 (AMD). PL 2019, c. 590, §5 (RP).

§1209. Mental Health Advisory Council

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 812, §261 (AMD). PL 1985, c. 712, §1 (AMD). PL 1987, c. 887, §4 (RP).

§1209-A. Mental Health Rights Advisory Board

(REPEALED)

SECTION HISTORY

PL 1985, c. 645, §3 (NEW). PL 1989, c. 503, §B161 (AMD). PL 1999, c. 668, §122 (RP).

§1209-B. Advisory Board on Rights of Children in Need of Services

(REPEALED)

SECTION HISTORY

PL 1989, c. 688, §2 (NEW). PL 1993, c. 360, §G2 (RP).

§1210. Maine Advisory Committee on Mental Retardation

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 812, §§262,263 (AMD). PL 1989, c. 73, §2 (AMD). PL 1993, c. 410, §CCC13 (AMD). PL 2007, c. 356, §8 (RP). PL 2007, c. 356, §31 (AFF).

§1211. Maine Developmental Disabilities Council

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 812, §264 (AMD). PL 1989, c. 503, §B162 (AMD). PL 1993, c. 600, §A279 (AMD). PL 2001, c. 25, §1 (AMD). PL 2003, c. 417, §2 (RP). PL 2003, c. 417, §4 (AFF).

§1212. State Forensic Service

1. Establishment and membership. The Commissioner of Health and Human Services shall establish a State Forensic Service and appoint its members. Members must be psychiatrists and licensed clinical psychologists experienced in forensic service and may not be directly involved in the treatment of persons committed to the department under Title 15, chapter 5. These psychiatrists and psychologists may be employed by the department directly or as independent contractors.
[RR 1995, c. 2, §85 (COR); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §7 (REV).]

2. Duties. The State Forensic Service shall have the following duties:

A. To perform examinations of the mental condition of a defendant pursuant to Title 15, section 101-D and to do the evaluations or examinations on behalf of any court of record, pursuant to agreement between the commissioner and the jurisdiction requesting that the evaluation be performed; [PL 2009, c. 268, §11 (AMD).]

B. To perform examinations of the mental condition of persons committed to the custody of the commissioner under Title 15, section 103, for the purposes specified in Title 15, section 104-A; [PL 1995, c. 219, §1 (AMD).]

C. To perform examinations of the mental condition of persons pursuant to Title 22, chapter 250; and [PL 1995, c. 219, §2 (AMD).]

D. To perform evaluations on behalf of any court of record. The State Forensic Service may contract with psychologists, psychiatrists and licensed clinical social workers to perform evaluations. The clinicians under contract are entitled to quasi-judicial immunity for all acts performed within the scope of their evaluation duties and in accordance with protocols for evaluations established by the State Forensic Service. [PL 1995, c. 219, §3 (NEW).]
[PL 2009, c. 268, §11 (AMD).]

3. Professional education program. The State Forensic Service may establish and maintain a professional education program designed to assist licensed psychologists and psychiatrists in developing expertise in the forensic aspects of each profession, with emphasis on the assessment of competency, criminal responsibility and abnormal condition of mind under the laws of the State.
[PL 1989, c. 621, §9 (NEW).]

SECTION HISTORY

PL 1985, c. 796, §7 (NEW). PL 1989, c. 487, §§16,17 (AMD). PL 1989, c. 621, §9 (AMD). RR 1995, c. 2, §85 (COR). PL 1995, c. 219, §§1-3 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B7 (REV). PL 2009, c. 268, §11 (AMD).

§1213. Release Review Advisory Committee

(REPEALED)

SECTION HISTORY

PL 1985, c. 796, §7 (NEW). PL 1993, c. 48, §2 (RP).

§1214. Interdepartmental Council

(REPEALED)

SECTION HISTORY

PL 1987, c. 181, §§1,2 (NEW). PL 1987, c. 831, §2 (NEW). PL 1989, c. 502, §B44 (RPR). PL 1989, c. 700, §A163 (AMD). PL 1989, c. 729 (AMD). PL 1991, c. 780, §DDD21 (AFF). PL 1993, c. 349, §68 (AMD). PL 1993, c. 410, §LL13 (AMD). PL 1993, c. 738, §B5 (RP).

§1215. Interim assistance payments

The department shall establish and maintain a nonlapsing revolving fund to provide interim assistance payments to Supplemental Security Income recipients: [PL 1989, c. 502, Pt. B, §45 (NEW).]

1. Benefits for hospitalization. Whose benefits have been terminated while they were hospitalized and who are reapplying for benefits because of their release from the hospital; or
[PL 1989, c. 502, Pt. B, §45 (NEW).]

2. Benefits when no longer able to work. Whose benefits have been terminated because they returned to work and who are reapplying for benefits because they have suffered a relapse and are no longer able to work.

These benefits shall be provided until their Supplemental Security Income application has been acted on. The fund shall be reimbursed, pursuant to Title 22, section 3174-E, for interim assistance payments made under this section.
[PL 1989, c. 502, Pt. B, §45 (NEW).]

SECTION HISTORY

PL 1989, c. 502, §B45 (NEW).

§1216. Consumer Advisory Board

(REPEALED)

SECTION HISTORY

PL 1989, c. 349, §2 (NEW). PL 1995, c. 127, §1 (AMD). PL 1995, c. 560, §§K22,23 (AMD). PL 2007, c. 356, §6 (AMD). PL 2007, c. 356, §31 (AMD). PL 2007, c. 695, Pt. D, §1 (AMD). MRSA T. 34-B §1216, sub-§4 (RP).

§1217. Application of consent decree

It is the intent of the Legislature that the principles of the consent decree issued on August 2, 1990 by the Superior Court, Kennebec County, in Civil Action Docket No. 89-88 as they relate to the development of a comprehensive mental health system apply to all persons with severe and prolonged mental illness. The individualized support plan process as contained in the decree in paragraphs 49 through 74, to the extent possible and within available resources, must be applicable to current and future patients of the former Bangor Mental Health Institute and the Dorothea Dix Psychiatric Center. In addition, patient assessments must be provided to Bangor Mental Health Institute and Dorothea Dix Psychiatric Center patients beginning July 1, 1991 and must be completed quarterly until individualized support plan implementation is developed. [PL 2005, c. 683, Pt. A, §58 (AMD).]

SECTION HISTORY

PL 1991, c. 9, §E18 (NEW). PL 2005, c. 683, §A58 (AMD).

§1218. Services to persons who are deaf or hard-of-hearing

1. Mental health services. The department shall provide accommodations and services for persons who are deaf or hard-of-hearing in order to provide access to mental health programs funded or licensed by the department. These accommodations must include, but are not limited to, the following:

A. Appropriate mental health assessments for clients who are deaf or hard-of-hearing; [PL 1993, c. 519, §1 (NEW).]

B. Provision of interpreter services for treatment; [PL 1993, c. 519, §1 (NEW).]

C. Educational and training for mental health staff providing treatment to persons who are deaf or hard-of-hearing; [PL 1993, c. 519, §1 (NEW).]

D. Placement of telecommunication devices for persons who are deaf or hard-of-hearing in comprehensive community mental health facilities; [PL 1993, c. 519, §1 (NEW).]

E. Support and training for families with members who are deaf or hard-of-hearing who experience mental health problems; and [PL 1993, c. 519, §1 (NEW).]

F. Establishment of a therapeutic residence program for persons who are deaf or hard-of-hearing and in need of residential mental health treatment. The therapeutic residence program must be operated in conjunction with existing rehabilitation, education, mental health treatment and housing resources. The therapeutic residence program must be staffed by individuals trained in mental health treatment and proficient in communication for the deaf. [PL 1993, c. 519, §1 (NEW).]

[PL 1995, c. 560, Pt. K, §24 (AMD).]

2. Services for persons with intellectual disabilities or autism. The department shall provide accommodations and services ensuring access for persons who are deaf or hard-of-hearing to programs funded or licensed by the department providing services for persons who have intellectual disabilities or autism. These accommodations and services must include, but are not limited to, the following.

A. The department shall ensure the provision of appropriate assessments for clients who are deaf or hard-of-hearing. Assessments must be performed by a person who is proficient in American Sign Language and must include an assessment of intellectual disability or autism and an assessment of communication skills, including the capacity to communicate using American Sign Language. The department shall survey the client population to determine which clients are deaf or hard-of-hearing. [PL 2011, c. 542, Pt. A, §65 (AMD).]

B. For purposes of treatment, the department shall ensure the provision of interpreter services by a person proficient in American Sign Language. [PL 1995, c. 560, Pt. K, §24 (AMD).]

C. The department shall ensure that staff providing direct services to persons who are deaf or hard-of-hearing have education and training in American Sign Language and deaf culture. [PL 2011, c. 542, Pt. A, §65 (AMD).]

D. The department shall provide for the placement of telecommunication devices for persons who are deaf or hard-of-hearing in any location that provides residential, employment or other community-based services for persons eligible under this Title. [PL 2011, c. 542, Pt. A, §65 (AMD).]

E. The department shall ensure the provision of support and training for families with members who have an intellectual disability or autism who are deaf or hard-of-hearing. [PL 2011, c. 542, Pt. A, §65 (AMD).]

F. The department shall establish therapeutic residence options for persons with intellectual disabilities or autism who are deaf or hard-of-hearing and in need of a residence. The therapeutic residences must be operated in conjunction with existing rehabilitation, education, housing and other community-based service resources. The therapeutic residences must be staffed by individuals trained in providing services for persons with intellectual disabilities and autism and proficient in American Sign Language. Therapeutic residence options must be flexible and allow for individual choice. [PL 2011, c. 542, Pt. A, §65 (AMD).]

G. The department shall designate in each regional office one staff person who is responsible for the coordination of deaf services in that office. The department shall provide ongoing training to regional office staff with the goal of having at least one person in each regional office who is proficient in American Sign Language. [PL 1995, c. 560, Pt. K, §24 (AMD).]

[PL 2011, c. 542, Pt. A, §65 (AMD).]

3. School-aged children. This section does not diminish or alter in any way the Department of Education's responsibility to provide free and appropriate education to students with disabilities.

[PL 1993, c. 519, §1 (NEW).]

4. Report. The department shall prepare a biennial report that describes accommodations and services available under this section and identifies unmet service needs and a plan to address those needs. The commissioner shall include representatives from deaf communities, families and public and private service agencies in the preparation of the report. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over human resource matters and the Office of the Executive Director of the Legislative Council by January 15th of every even-numbered year.
[PL 1993, c. 519, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 519, §1 (NEW). PL 1995, c. 560, §K24 (AMD). PL 2011, c. 542, Pt. A, §65 (AMD).

§1218-A. Baxter Counseling Services Program

The Baxter Counseling Services Program, referred to in this section as "the program," is established within the department to facilitate the delivery of therapeutic counseling services for eligible former students of the Maine School for the Deaf or the Governor Baxter School for the Deaf without cost to individuals. Services facilitated under the program are limited to therapeutic counseling services for eligible former students. The department shall ensure that therapeutic counseling services provided under the program are reimbursed under the MaineCare program to the maximum extent possible. [PL 2023, c. 412, Pt. TTTT, §1 (NEW); PL 2023, c. 412, Pt. TTTT, §3 (AFF).]

1. Eligibility. This subsection governs eligibility for therapeutic counseling services under the program. Eligibility is limited to individuals who are former students of the Maine School for the Deaf or the Governor Baxter School for the Deaf and who attended or graduated before July 1, 2001.
[RR 2023, c. 2, Pt. A, §53 (COR).]

2. Facilitation of counseling services. The department shall facilitate therapeutic counseling services through contracts with mental health providers that specialize in services for individuals who are deaf, hard of hearing and late deafened. New contracts entered into with mental health providers that do not have a contract with the State must enroll as MaineCare providers. The department, as payor of last resort, shall provide General Fund contracts for therapeutic counseling services for individuals who do not receive MaineCare benefits and for individuals who are uninsured or underinsured. The department shall assist mental health providers in navigating reimbursement under the MaineCare program. The department shall monitor contracts to ensure compliance related to program eligibility, MaineCare policies and department licensure requirements. Therapeutic counseling services funded under the program may not exceed $170,000 per year.
[PL 2023, c. 412, Pt. TTTT, §1 (NEW); PL 2023, c. 412, Pt. TTTT, §3 (AFF).]

SECTION HISTORY

PL 2023, c. 412, Pt. TTTT, §1 (NEW). PL 2023, c. 412, Pt. TTTT, §3 (AFF). RR 2023, c. 2, Pt. A, §53 (COR).

§1219. State strategy for preventing imprisonment of persons with serious mental illness

1. Development of state strategy. The department shall develop a comprehensive state strategy for preventing the inappropriate incarceration of seriously mentally ill individuals and for diverting those individuals away from the criminal justice system. This strategy must be developed with the active participation of other agencies and providers responsible for serving persons with serious mental illness, including representatives of community mental health centers, area shelters, other community providers, consumers of services and their families, providers of inpatient mental health services, advocates for consumers of mental health services, sheriffs' departments and the Department of Public Safety.
[PL 2011, c. 657, Pt. AA, §85 (AMD).]

2. Components of strategy. The state strategy developed under subsection 1 must include, but is not limited to:

A. Identification of existing programs or creation of jail diversion and community mental health programs to serve persons with serious mental illness who have been charged with minor crimes that are a manifestation of their illness, including identification of financing mechanisms for the programs and the services provided; [PL 1995, c. 431, §2 (NEW).]

B. Systems for the evaluation of serious mental illness, within 24 hours of contact with the criminal justice system, of persons charged with minor crimes and timely referral of those persons identified as seriously mentally ill to appropriate community mental health programs; [PL 1995, c. 431, §2 (NEW).]

C. Specific mechanisms for enabling police and correctional officers to communicate and consult on a timely basis with appropriate mental health personnel about specific cases; [PL 1995, c. 431, §2 (NEW).]

D. Plans for conducting training, in conjunction with the Maine Criminal Justice Academy, of law enforcement and correctional personnel about serious mental illness and effective methods for evaluating, treating and managing persons with serious mental illness; [PL 1995, c. 431, §2 (NEW).]

E. Plans for training mental health professionals who participate in state-funded, educational training programs to work with persons with serious mental illness in correctional facilities, including, but not limited to, on-site field experience in correctional facilities or jail diversion programs; and [PL 1995, c. 431, §2 (NEW).]

F. Plans for providing comprehensive treatment, services and support to persons with serious mental illness following their release from correctional facilities. [PL 1995, c. 431, §2 (NEW).]
[PL 1995, c. 431, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 431, §2 (NEW). PL 2003, c. 689, §B6 (REV). PL 2011, c. 657, Pt. AA, §85 (AMD).

§1220. Mental health services to persons on probation

The department shall designate at least one individual within each of the 7 areas described in section 3608, subsection 1-A to act as liaison to the District Courts and Superior Courts of the State and to the Department of Corrections in its administration of probation and parole services. [PL 2013, c. 133, §34 (AMD).]

1. Duties of liaison. A liaison has the following duties:

A. To provide reports in a timely fashion on behalf of the department in response to any requests made by a court pursuant to Title 17-A, section 1807, subsection 5 and to undertake or cause to be undertaken such inquiries or evaluations as are necessary to complete the reports; [PL 2019, c. 113, Pt. C, §109 (AMD).]

B. To obtain evaluations as may be required by this section from a person who is one of the following:

(1) A licensed psychiatrist;

(2) A licensed psychologist;

(3) A nurse certified by a national association of nurses as a psychiatric and mental health nurse or as a clinical specialist in adult psychiatric and mental health nursing;

(4) A social worker licensed as a licensed clinical social worker or a licensed master social worker; or

(5) A licensed clinical professional counselor; and [PL 1997, c. 422, §3 (NEW).]

C. To receive any notice of imposition of a condition of probation given pursuant to Title 17-A, section 1807, subsection 5 and to assess or to obtain an assessment of the appropriateness and availability of the mental health services necessary for an individual to meet the conditions of probation imposed. [PL 2019, c. 113, Pt. C, §110 (AMD).]

[PL 2019, c. 113, Pt. C, §§109, 110 (AMD).]

2. Mental health services inappropriate or unavailable. If, after completion of a report as required by subsection 1, paragraph A, the evaluator or the liaison is of the opinion, based upon professional judgment, that the mental health services necessary for an individual to meet the conditions of probation are inappropriate given the individual's clinical condition or that the mental health services are unavailable, then the liaison shall notify the court, the probation officer, the individual on probation and the individual's attorney, if known, that the mental health services are inappropriate or unavailable. [RR 2013, c. 2, §43 (COR).]

3. Mental health services appropriate and available. If, after completion of a report as required by subsection 1, paragraph A, the evaluator or the liaison is of the opinion, based upon professional judgment, that the mental health services necessary for an individual to meet the conditions of probation are appropriate given the individual's clinical condition and the evaluator or the liaison knows that the services are available, then the liaison shall assist the individual in obtaining the appropriate mental health services.

[PL 1997, c. 422, §3 (NEW).]

SECTION HISTORY

RR 1997, c. 1, §27 (COR). PL 1997, c. 422, §3 (NEW). PL 2007, c. 286, §3 (AMD). RR 2013, c. 2, §43 (COR). PL 2013, c. 133, §34 (AMD). PL 2019, c. 113, Pt. C, §§109, 110 (AMD).

§1221. Plans for the homeless

The regional housing coordinator for each region shall convene a working group annually to develop a plan that states how mental health or substance use disorder services needed by individuals using homeless shelters will be provided. Each working group shall submit a plan annually to the community service network established pursuant to section 3608. The community service network shall review the plan and submit it, with any suggested changes, to the Statewide Homeless Council, established pursuant to Title 30-A, section 5046. [PL 2017, c. 407, Pt. A, §157 (AMD).]

1. Working group. The working group in each region consists of the following members:

A. Representatives of homeless shelter operators that receive shelter operating subsidy funds from the Housing Opportunities for Maine Fund designated by the Maine State Housing Authority; [PL 1997, c. 643, Pt. XX, §4 (NEW).]

B. Representatives of mental health provider agencies designated by the department; [PL 1997, c. 643, Pt. XX, §4 (NEW).]

C. Representatives of providers of substance use disorder services designated by the department; [PL 2017, c. 407, Pt. A, §158 (AMD).]

D. The regional housing coordinators; and [PL 1997, c. 643, Pt. XX, §4 (NEW).]

E. Representatives of the boards of directors of the entities listed in paragraphs A, B and C designated by the boards of directors. [PL 1997, c. 643, Pt. XX, §4 (NEW).]

[PL 2017, c. 407, Pt. A, §158 (AMD).]

2. Plan contents. Each plan must be designed to meet local needs and must include, but is not limited to, the following components:

A. An overview of local service area needs; [PL 1997, c. 643, Pt. XX, §4 (NEW).]

B. A review of the factors that lead to homelessness, the barriers to permanent housing and the clinical needs of individuals using homeless shelters based upon discussions with those persons; and [PL 1997, c. 643, Pt. XX, §4 (NEW).]

C. Procedures for referrals, treatment planning, information sharing, clinical services, training for shelter and mental health services providers and determining consumer satisfaction with shelter services and mental health services. [PL 1997, c. 643, Pt. XX, §4 (NEW).]

[PL 1997, c. 643, Pt. XX, §4 (NEW).]

SECTION HISTORY

PL 1997, c. 643, §XX4 (NEW). PL 2005, c. 380, §B14 (AMD). PL 2007, c. 286, §4 (AMD). PL 2017, c. 407, Pt. A, §§157, 158 (AMD).

§1222. County jail mental illness treatment pilot programs

The department, together with the Department of Corrections, shall convene a stakeholder group, which must include at a minimum representatives of mental health providers, county jail facilities, advocacy groups, persons with mental illness who are or have been incarcerated in jail and families of persons with mental illness who are or have been incarcerated in jail. The stakeholder group shall design a pilot program to provide increased mental health services to county jail populations. The pilot program must be based on best practices approaches that are supported by research and include collaboration agreements among county jails, community mental health providers, the department and the Department of Corrections. The pilot program must also include mechanisms for evaluating program success. The pilot program must augment and not supplant any existing mental health or county jail efforts to meet the needs of persons with mental illness. [PL 2001, c. 659, Pt. G, §1 (NEW).]

Once agreement on program design is reached by the stakeholder group and an agreement on program content, focus and function is signed by all stakeholders, the department, in cooperation with the Department of Corrections, shall act as the program and fiscal oversight agent and make available through one or more contracts funds for the pilot program. The department shall seek Medicaid or other available funds to support this effort wherever possible. [PL 2001, c. 659, Pt. G, §1 (NEW).]

By January 30, 2003, the department and the Department of Corrections shall provide a report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters on the success of the pilot program. [PL 2001, c. 659, Pt. G, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 659, §G1 (NEW).

§1223. Maine Developmental Services Oversight and Advisory Board

1. Composition. The Maine Developmental Services Oversight and Advisory Board, as established by Title 5, section 12004-J, subsection 15 and referred to in this section as "the board," consists of 15 members appointed by the Governor from a list of nominees proposed by the board pursuant to procedures established in the rules of the board.

A. The board shall submit nominees to the Governor at least 90 days prior to the expected date of each vacancy. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

B. In making nominations, the board shall endeavor to ensure adequate representation at all times from different service regions of the State and from interested stakeholder groups, including but not limited to:

(1) The protection and advocacy agency designated pursuant to Title 5, section 19502;

(2) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations;

(3) A nonprofit organization that serves teens and young adults in the State with emotional and intellectual disabilities;

(4) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations; and

(5) The Maine Developmental Disabilities Council. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

C. In making the nominations and appointments, the board and the Governor shall endeavor to ensure that at least 8 of the members of the board are persons with intellectual disabilities or autism or family members, guardians or allies of persons with intellectual disabilities or autism who receive services funded by the Department of Health and Human Services. Of these members, at least 4 must be persons with intellectual disabilities or autism, referred to in this section as "self-advocates." [PL 2011, c. 542, Pt. A, §66 (AMD).]

Members of the board must include stakeholders involved in services and supports for persons with intellectual disabilities or autism in the State and other individuals interested in issues affecting persons with intellectual disabilities or autism. Employees of the Department of Health and Human Services may not be appointed as members of the board.
[PL 2011, c. 542, Pt. A, §66 (AMD).]

2. Terms. Members of the board serve 3-year terms. A member serves until a successor is appointed. A vacancy must be filled as soon as practicable by appointment for the unexpired term.
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

3. Chair. The board shall elect a chair from among its members.
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

4. Compensation. Members of the board are entitled to reimbursement of reasonable expenses incurred in order to serve on the board as provided in Title 5, section 12004-J, subsection 15. Members not otherwise compensated by their employers or other entities whom they represent are entitled to receive a per diem as established by rule or policy adopted by the board for their attendance at authorized meetings of the board.
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

5. Staff. The board may hire an executive director and clerical support staff.
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

6. Budget. The Department of Administrative and Financial Services shall administer the budget of the board. The board shall provide to the Commissioner of Administrative and Financial Services a proposed budget in accordance with a schedule agreed to by the chair and the Commissioner of Administrative and Financial Services. The Department of Administrative and Financial Services shall include in its estimate of expenditure and appropriation requirements filed pursuant to Title 5, section 1665 sufficient funds, listed in a separate account as a separate line item, to enable the board to perform its duties.
[PL 2021, c. 686, §4 (AMD).]

7. Maine Tort Claims Act. The board members and staff act as employees of the State, as defined in Title 14, section 8102, subsection 1, when engaged in official duties specified in this section or assigned by the board.
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

8. Oversight and advisory functions. The board shall:

A. Provide independent oversight over programs and services for adults with intellectual disabilities or autism that are provided, authorized, funded or supported by the department or any other agency or department of State Government. The board shall focus on systemic concerns

affecting the rights of persons with intellectual disabilities or autism, including but not limited to issues surrounding health and safety, inclusion, identification of needs and desires of persons eligible for services by the department, the timely meeting of the identified needs and effective and efficient delivery of services and supports; and [PL 2011, c. 542, Pt. A, §66 (AMD).]

B. Provide advice and systemic recommendations to the commissioner, the Governor and the Legislature regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with intellectual disabilities or autism. [PL 2011, c. 542, Pt. A, §66 (AMD).]

[PL 2011, c. 542, Pt. A, §66 (AMD).]

9. Powers and duties of the board. In order to carry out its oversight and advisory functions, the board has the following powers and duties.

A. The board shall hold at least one hearing or other forum each year that is open to the public in order to gather information about the availability, accessibility and quality of services available to persons with intellectual disabilities or autism and their families. [PL 2011, c. 542, Pt. A, §67 (AMD).]

B. The board may accept funds from the Federal Government, the State, a political subdivision of the State, individuals, foundations and corporations and may expend those funds for purposes consistent with the board's functions, powers and duties. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

C. The board shall establish priorities for its oversight and systems advocacy work. In establishing priorities, the board shall consider the results of its work in addressing the priorities established in previous years. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

D. The board shall report at least annually to the Governor and the Legislature on its activities and recommendations regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with intellectual disabilities or autism. The board's annual report must include the board's assessment of its operations and progress in addressing the priorities established pursuant to paragraph C. The board's annual report must be made public and widely disseminated in a manner designed to inform interested stakeholders. [PL 2011, c. 542, Pt. A, §67 (AMD).]

E. The board may provide reports and recommendations to the commissioner on matters of systemic concern arising from the board's oversight role. The board may recommend that the department undertake the study of specific systemic issues as part of the department's annual quality assurance activities and strategies, and the board may collaborate and cooperate with the department in the conduct of any such studies, if feasible. The commissioner shall provide a written response no later than 30 days following receipt of the recommendations from the board. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

F. The board may refer individual cases that require investigation or action to the department, the protection and advocacy agency designated pursuant to Title 5, section 19502 or other appropriate agency. [PL 2011, c. 657, Pt. EE, §2 (AMD).]

[PL 2011, c. 542, Pt. A, §67 (AMD); PL 2011, c. 657, Pt. EE, §2 (AMD).]

10. Access to information. The board is entitled to access to information from the department necessary to carry out its functions. Except as provided in paragraphs D and E, information provided pursuant to this subsection may not contain personally identifying information about a person with intellectual disabilities or autism.

A. Within existing resources, the department shall provide the board, on a schedule to be agreed upon between the board and the department, reports on case management, reportable events, adult protective and rights investigations, unmet needs, crisis services, quality assurance, quality improvement, budgets and other reports that contain data about or report on the delivery of services to or for the benefit of persons with intellectual disabilities or autism, including reports developed

by or on behalf of the department and reports prepared by others about the department. [PL 2021, c. 686, §5 (AMD).]

B. Within existing resources, the department, when requested by the board or pursuant to a written agreement with the board, shall release to the board information pertaining to alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of a person with intellectual disabilities or autism. [PL 2021, c. 686, §5 (AMD).]

C. [PL 2013, c. 310, §1 (RP).]

D. The board may examine confidential information in individual records with written permission of the person or that person's guardian. If the person or that person's guardian provides the board with written permission to examine confidential information, the board must maintain the confidentiality of the information as required by section 1207. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

E. A member of the board or the board's staff may receive and examine confidential information when otherwise authorized to do so by law, including but not limited to when serving on a committee established by the department or other entity for which access to such information is necessary to perform the function of the committee. [PL 2021, c. 686, §5 (AMD).]

[PL 2021, c. 686, §5 (AMD).]

11. Rulemaking. The board shall adopt rules governing its operations, including rules establishing its bylaws. Rules adopted pursuant to this subsection must address:

A. Procedures for nominating persons to fill vacancies on the board; [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

B. Procedures for holding annual hearings or other alternative means of receiving input from citizens throughout the State pursuant to subsection 9; [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

C. Procedures for exercising its powers pursuant to subsection 10, paragraph D in a manner that is respectful of the rights, interests and opinions of persons whose records are at issue; [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

D. Procedures concerning the hiring of an executive director, including the method for selection and the role of the executive director and procedures concerning the supervision, compensation and evaluation of the executive director; and [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

E. The provision of per diem stipends for members not otherwise compensated by their employers or other entities whom they represent for their attendance at authorized meetings of the board. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

SECTION HISTORY

PL 2007, c. 356, §7 (NEW). PL 2007, c. 356, §31 (AFF). PL 2007, c. 695, Pt. D, §3 (AFF). PL 2011, c. 542, Pt. A, §§66-68 (AMD). PL 2011, c. 657, Pt. EE, §§2, 3 (AMD). PL 2013, c. 310, §1 (AMD). PL 2021, c. 686, §§4, 5 (AMD).

§1224. Processing fee

Beginning October 1, 2010, a facility or health care provider subject to the licensing provisions of section 1203-A shall pay a processing fee not to exceed $10 to the department for the reissuance of a

license when the licensee made changes that require the reissuance of a license. [PL 2009, c. 590, §7 (NEW).]

The department may adopt rules necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 590, §7 (NEW).]

REVISOR'S NOTE: §1224. Criminal background checks (As enacted by PL 2009, c. 621, §8 is REALLOCATED TO TITLE 34-B, SECTION 1225)

SECTION HISTORY

PL 2009, c. 590, §7 (NEW).

§1225. Criminal background checks

(REALLOCATED FROM TITLE 34-B, SECTION 1224)

Beginning October 1, 2010, a facility or health care provider subject to the licensing provisions of section 1203-A, prior to hiring an individual who will work in direct contact with a consumer or who has direct access to a consumer's property, personally identifiable information, financial information or resources, shall obtain a comprehensive background check in accordance with applicable federal and state laws. The comprehensive background check must include, at a minimum, criminal history record information from the Department of Public Safety, State Bureau of Identification. A facility or provider licensed under section 1203-A is subject to the employment restrictions set out in Title 22, section 1812-G and other applicable federal and state laws when employing direct access personnel, as defined in Title 22, section 1717, subsection 1, paragraph A-2. The facility or health care provider shall pay for the criminal background check required by this section. [PL 2015, c. 494, Pt. A, §38 (RPR).]

The department may adopt rules necessary to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 621, §8 (NEW); RR 2009, c. 2, §94 (RAL).]

SECTION HISTORY

PL 2009, c. 621, §8 (NEW). RR 2009, c. 2, §94 (RAL). PL 2015, c. 196, §17 (AMD). PL 2015, c. 299, §28 (AMD). PL 2015, c. 494, Pt. A, §38 (AMD).

§1226. Resources available for patients entering residential care facilities

(REPEALED)

SECTION HISTORY

PL 2017, c. 461, §1 (NEW). MRSA T. 34-B §1226, sub-§3 (RP).

§1227. Health-related services for children from birth to 5 years of age to access education

1. Services required. The department shall provide reimbursement for health-related services that are required for children from birth to 5 years of age to access their education. Health-related services may include, but are not limited to, physical therapy, occupational therapy, speech therapy, nursing services, social work services and behavioral health services.
[PL 2021, c. 227, §1 (NEW).]

2. Rulemaking. The department shall adopt rules to implement this section. The rules must establish the process for reimbursement under subsection 1 and be consistent with federal law. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 227, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 227, §1 (NEW).

SUBCHAPTER 2-A

FUNDS FOR THE DEVELOPMENTALLY DISABLED

§1231. Self-sufficiency trust fund

1. Trust established. There is created the Self-sufficiency Trust Fund. The State Treasurer, ex officio, is the custodian of the trust fund and the comptroller shall direct payments from the trust fund upon vouchers properly certified by the Commissioner of Health and Human Services. The treasurer shall credit interest on the trust fund to the trust fund and the commissioner shall allocate that interest pro rata to the respective accounts of the named beneficiaries of the trust fund.

A. For the purposes of this section, the term "self-sufficiency trust" means a trust created by a nonprofit corporation which is a 501-C-3 organization under the United States Internal Revenue Code of 1954 and which was organized under the Nonprofit Corporation Act, Title 13-B, for the purpose of providing for the care or treatment of one or more developmentally disabled persons or persons otherwise eligible for department services. [PL 1987, c. 176 (NEW).]

[RR 1995, c. 2, §86 (COR); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §7 (REV).]

2. Rules. The department shall adopt these rules and procedures under the Maine Administrative Procedure Act, Title 5, chapter 375, as may be necessary or useful for the administration of the trust fund.

[PL 1987, c. 176 (NEW).]

SECTION HISTORY

PL 1987, c. 176 (NEW). RR 1995, c. 2, §86 (COR). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B7 (REV).

§1232. Administration of fund

1. Naming beneficiaries. The Department of Health and Human Services may accept money from a self-sufficiency trust for deposit in the trust fund pursuant to an agreement with the trust naming one or more beneficiaries who are developmentally disabled persons or persons otherwise eligible for department services residing in this State and specifying the care or treatment to be provided for them. The department shall maintain a separate account in the trust fund for each named beneficiary.

[PL 1987, c. 176 (NEW); PL 1995, c. 560, Pt. K, §82 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Care and support of beneficiaries. The money in these accounts shall be spent by the department, pursuant to its rules, only to provide care and treatment for the named beneficiaries in accordance with the terms of the agreement.

[PL 1987, c. 176 (NEW).]

3. Return of money. In the event that the director determines that the money in the account of a named beneficiary cannot be used for the care or treatment of the beneficiary in a manner consistent with the rules of the department and the agreement, or upon request of the self-sufficiency trust, the remaining money in that account, together with any accumulated interest on that account, shall be promptly returned to the self-sufficiency trust which deposited the money in the trust fund.

[PL 1987, c. 176 (NEW).]

4. Other benefits not affected. The receipt by a beneficiary of money from the trust fund, or of care or treatment provided with that money, shall not in any way reduce, impair or diminish the benefits to which the beneficiary is otherwise entitled by law.

[PL 1987, c. 176 (NEW).]

SECTION HISTORY

PL 1987, c. 176 (NEW). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV).

§1233. Special fund in the State Treasury

The fund for the developmentally disabled is created as a special fund in the State Treasury. The director may accept money from any source for deposit into the fund. The money in the fund shall be used by the department, subject to an allocation for the purpose of providing for the care and treatment of low-income developmentally disabled persons, or low-income persons otherwise eligible for department services, as defined by the department. [PL 1987, c. 176 (NEW).]

SECTION HISTORY

PL 1987, c. 176 (NEW).

SUBCHAPTER 2-B

DOROTHEA DIX AWARD

§1301. Dorothea Dix Award

The commissioner shall establish the Dorothea Dix Award, which recognizes and honors outstanding achievement in improving the lives of people living with mental illness or mental disabilities. The award must be made on April 4th of each odd-numbered year at the Dorothea Dix Psychiatric Center. The Governor or the Governor's designee shall present the award. [PL 2005, c. 236, §1 (NEW).]

1. Eligibility. A person who is a Maine resident or has direct long-standing ties with Maine is eligible to win the award.
[PL 2005, c. 236, §1 (NEW).]

2. Dorothea Dix Award Selection Committee; established. The Dorothea Dix Award Selection Committee, known in this subchapter as "the committee," is established and consists of the following 4 members:

A. One member representing people with mental illness, chosen by the Governor; [PL 2005, c. 236, §1 (NEW).]

B. One member representing advocates for the legal rights of people living with disabilities, chosen by the President of the Senate; [PL 2005, c. 236, §1 (NEW).]

C. One member representing people with mental disabilities, chosen by the Speaker of the House of Representatives; and [PL 2005, c. 236, §1 (NEW).]

D. One member representing children living with mental illness or mental disabilities, chosen by the Attorney General. [PL 2005, c. 236, §1 (NEW).]
[PL 2005, c. 236, §1 (NEW).]

3. Selection procedure. Any person may nominate a candidate for the award. The committee shall develop a review and selection procedure.
[PL 2005, c. 236, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 236, §1 (NEW).

SUBCHAPTER 3

INSTITUTIONS GENERALLY

ARTICLE 1

ADMINISTRATIVE PROVISIONS

§1401. Chief administrative officers

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC14 (AMD). PL 1993, c. 667, §2 (AMD). PL 1995, c. 395, §G12 (AMD). PL 1995, c. 395, §G20 (AFF). PL 1995, c. 560, §§K25,26 (AMD). PL 2005, c. 236, §§3,4 (REV). PL 2007, c. 539, Pt. N, §65 (RP).

§1402. Community services

1. Commissioner's duty. In every state institution to which a person with mental illness or an intellectual disability may be committed, the commissioner shall organize and administer the duties set forth in subsection 2.
[PL 2011, c. 542, Pt. A, §69 (AMD).]

2. Duties. The department shall:

A. Supervise clients who have left the institution with a view to their safe care at home, suitable employment and self-support under good working and living conditions, and with a view to prevention of their relapse and return to public dependency; [PL 1983, c. 459, §7 (NEW).]

B. Provide for informing and advising any indigent person, that person's relatives or friends and the representatives of any charitable agency as to:

(1) The mental condition of the indigent person;

(2) The prevention and treatment of the condition;

(3) The available institutions or other means of caring for the person; and

(4) Any other matter relative to the welfare of the person; and [PL 2009, c. 299, Pt. A, §6 (AMD).]

C. Acquire and disseminate knowledge of mental disease, intellectual disabilities, autism and other related conditions with a view to promoting a better understanding and the most enlightened public sentiment and policy in these matters, and in this work the department may cooperate with local authorities, schools and social agencies. [PL 2011, c. 542, Pt. A, §70 (AMD).]
[PL 2011, c. 542, Pt. A, §70 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1995, c. 560, §K27 (AMD). PL 2009, c. 299, Pt. A, §6 (AMD). PL 2011, c. 542, Pt. A, §§69, 70 (AMD).

§1403. Boards of visitors

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 812, §265 (AMD). PL 1987, c. 402, §A177 (AMD). PL 1987, c. 887, §5 (RP).

§1403-A. Pineland Center Board of Visitors

(REPEALED)

SECTION HISTORY

PL 1991, c. 70, §2 (NEW). PL 1993, c. 360, §H2 (AMD). PL 1995, c. 395, §G13 (RP). PL 1995, c. 395, §G20 (AFF).

§1404. Legal actions

1. Contract actions. Actions founded on any contract made with the Chief Procurement Officer, or with any official of the department under the authority granted by the Chief Procurement Officer, on behalf of any of the state institutions may be brought by the official making the contract or that official's successor in office.
[PL 2023, c. 516, Pt. B, §47 (AMD).]

2. Actions for injuries to property. Actions for injuries to the real or personal property of the State, used by any state institution and under the management of the chief administrative officer of the institution, may be prosecuted in the name of the officer or that officer's successor in office.
[RR 2019, c. 2, Pt. B, §89 (COR).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). RR 2019, c. 2, Pt. B, §89 (COR). PL 2023, c. 516, Pt. B, §47 (AMD).

§1405. Emergencies

When emergency situations are certified by the chief administrative officer of a state institution to exist at the institution, the commissioner may, with the approval of the Governor, assign departmental personnel as may be necessary to assist in controlling the emergency situation. [PL 1983, c. 459, §7 (NEW).]

1. Temporary assignment. The assignment of personnel shall be only for the period during which the emergency exists.
[PL 1983, c. 459, §7 (NEW).]

2. Compensation. Any personnel transferred are entitled to receive compensation as required by the Civil Service Law, rules and contract terms.
[PL 1985, c. 785, Pt. B, §163 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 785, §B163 (AMD).

§1406. Improper conduct of institutional officers

The commissioner may inquire into any improper conduct imputed to state institutional officers in relation to the concerns of their institutions, and for that purpose may: [PL 1983, c. 459, §7 (NEW).]

1. Subpoenas. Issue subpoenas for witnesses and compel their attendance and the production of papers and writings by punishment for contempt in case of willful failure, neglect or refusal;
[PL 1983, c. 459, §7 (NEW).]

2. Examination of witnesses. Examine witnesses under oath; and
[PL 1983, c. 459, §7 (NEW).]

3. Adjudication. Adjudicate cases of alleged improper conduct in a manner similar to and with similar effect as cases of arbitration.

[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§1407. Appointment of physician

In every state institution to which a person with mental illness or a person with an intellectual disability or autism may be committed, the commissioner shall appoint a physician experienced in the care and treatment of such persons and the necessary assistants to the physician. [PL 2011, c. 542, Pt. A, §71 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2011, c. 542, Pt. A, §71 (AMD).

§1408. Cooperation with state departments

Whenever it is determined advisable, the chief administrative officer of any institution providing services for persons with mental illness, intellectual disabilities or autism may cooperate with state departments to examine upon request and recommend suitable treatment and supervision for: [PL 2011, c. 542, Pt. A, §72 (AMD).]

1. Mental illness, intellectual disability or autism. Persons thought to have a mental illness, an intellectual disability or autism; and
[PL 2011, c. 542, Pt. A, §72 (AMD).]

2. Juvenile Court. Children brought before any Juvenile Court.
[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2011, c. 542, Pt. A, §72 (AMD).

§1409. Payment for care and treatment of residents

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Care and treatment" includes all goods and services provided, or caused to be provided, to a resident by the State. [PL 1983, c. 459, §7 (NEW).]

B. "Liable person" means a person liable for the care and treatment of a resident under subsection 3. [PL 1983, c. 459, §7 (NEW).]

B-1. "Resident," for purposes of this section and this section only, means any of the following:

(1) A person who is an inpatient; or

(2) A person who is an outpatient receiving services from any state institution, including outpatient clinic services. [PL 2011, c. 674, §1 (AMD).]

C. [PL 2005, c. 683, Pt. B, §29 (RP).]

D. [PL 2011, c. 674, §2 (RP).]
[PL 2011, c. 674, §§1, 2 (AMD).]

2. Charges. Charges under this section are governed as follows.

A. The commissioner shall establish by rule charges for the care and treatment of residents at any state institution. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 256, §3 (AMD).]

B. Charges made under this section are a debt of the resident, or any person legally liable for the resident's care and treatment under this section, and are recoverable in any court of competent jurisdiction in a civil action brought in the name of the State. [PL 1983, c. 459, §7 (NEW).]
[PL 2005, c. 256, §3 (AMD).]

3. Liable persons. Each resident, the resident's spouse and the resident's parent are jointly and severally liable for the care and treatment of the resident, whether the resident was committed or otherwise legally admitted, from the date of the resident's admission to a state institution, except that:

A. A parent is not liable for a child resident's care and treatment, unless the child resident was wholly or partially dependent for support upon the parent at the time of admission; and [PL 1983, c. 701, §6 (AMD).]

B. [PL 1983, c. 701, §6 (RP).]

C. The department may not charge any parent for the care and treatment of a child resident beyond the child's 18th birthday, or beyond 6 months from the date of the child's admission, whichever occurs later. [PL 1983, c. 459, §7 (NEW).]
[RR 2019, c. 2, Pt. B, §90 (COR).]

4. Financial statement forms. Financial statement forms are governed as follows.

A. The commissioner shall prescribe financial statement forms which shall be completed by:

(1) The resident;

(2) Any person liable for the resident's care and treatment under this section; or

(3) Any fiduciary acting on behalf of the resident or person liable for the resident. [PL 1983, c. 459, §7 (NEW).]

B. The form in each case shall be witnessed. [PL 1983, c. 459, §7 (NEW).]
[PL 1983, c. 459, §7 (NEW).]

5. Determination of ability to pay. After a resident is admitted into any state institution, the department shall:

A. Investigate to determine what property, real and personal, the resident has, and, in determining ability to pay, the department shall consider all income, debts, expenses, obligations and the number and condition of dependents; and [PL 1983, c. 459, §7 (NEW).]

B. Investigate to determine whether there exist any persons liable under subsection 3 for the payment of charges for the resident's care and treatment.

(1) The department shall ascertain the financial condition of the persons, if any, and shall determine whether each person is financially able to pay the charges.

(2) In determining the person's ability to pay, the department shall consider all income, debts, expenses, obligations and the number and condition of dependents. [PL 1983, c. 459, §7 (NEW).]
[PL 1983, c. 459, §7 (NEW).]

6. Obtaining information. The obtaining of information under this section is governed as follows.

A. Every agency and department of the State shall render all reasonable assistance to the department in obtaining all information necessary for the proper implementation of the purposes of this section. [PL 1983, c. 459, §7 (NEW).]

B. To carry out the purposes of this section, the commissioner may administer oaths, take testimony, subpoena and compel the attendance of witnesses, and subpoena and compel the production of books, papers, records and documents deemed material or pertinent in connection

with the commissioner's duty of securing payments for care and treatment as provided in this section.

(1) Any person failing to obey a subpoena may, upon petition of the commissioner to any Justice of the Superior Court, be ordered by the justice to appear and show cause for that person's disobedience of the subpoena.

(2) The justice, after hearing, may order that the subpoena be obeyed or, if it is made to appear to the justice that the subpoena was for any reason inappropriately issued, may dismiss the petition. [RR 2019, c. 2, Pt. B, §91 (COR).]

C. Upon request of the commissioner, banking organizations, insurance companies, brokers or fiduciaries shall furnish to the commissioner full information concerning the earnings of, income of, funds deposited to the credit of or funds owing to any resident, or any person liable under subsection 3 for the resident.

(1) The information shall be provided in writing and shall be duly certified.

(2) The certified statement is admissible in evidence in any action or proceeding to compel payment for the care and treatment of the resident.

(3) The certified statement is prima facie evidence of the facts stated in the statement. [PL 1983, c. 459, §7 (NEW).]

[RR 2019, c. 2, Pt. B, §91 (COR).]

7. Inability to pay. When it is determined that any resident or liable person is unable to pay all or part of the charges for care and treatment, the commissioner may cancel, suspend or reduce charges in accordance with the resident's or liable person's ability to pay.

[PL 1983, c. 459, §7 (NEW).]

8. Postponement of billing. The commissioner may enter into an agreement with any resident or liable person to postpone billing for care and treatment for any period of time.

[PL 1983, c. 459, §7 (NEW).]

9. Benefit payments. The chief administrative officer of any state institution may receive as payee any benefits from social security, veterans' administration, railroad retirement or any other like benefits paid on behalf of any resident.

A. The chief administrative officer shall apply the benefits toward the care and treatment of the resident in accordance with charges made by the department. [PL 1983, c. 459, §7 (NEW).]

B. Any surplus from the payments shall be held in a personal account at the hospital in the name of the resident and shall be available for the resident's personal needs. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

10. Claims against estates. The State has a claim against the estate of any resident, and the estate of any liable person, for any amount due to the State at the date of death of the resident or the liable person, including any claim arising under an agreement entered into under this section, enforceable in the Probate Court.

A. The state's claim has priority over all unsecured claims against the estate, except:

(1) Administrative expenses, including probate fees and taxes;

(2) Expenses of the last sickness; and

(3) Funeral expenses, not exceeding $400, exclusive of the honorarium of the clergy and cemetery expenses. [PL 1983, c. 459, §7 (NEW).]

B. The Attorney General shall collect any claim which the State may have against the estate. [PL 1983, c. 459, §7 (NEW).]

C. The State may not enforce a claim against any real estate while it is occupied as a home by the surviving spouse of the resident or liable person and while the surviving spouse remains unmarried. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

11. Reimbursement of providers. Notwithstanding any other law, if part of the care and treatment of a resident under this section is provided by a party other than the State, the commissioner shall pay to the other party, from the fee collected by the department for the care and treatment of the resident, the portion of those costs borne by the other party in the same ratio as the fee collected to the total charge made, except that:

A. This subsection may not be construed as a limitation on compensation for providers of resident care and treatment; [PL 2011, c. 674, §3 (AMD).]

B. This subsection may not be construed as a limitation on contractual arrangements between the providers and the State; and [PL 2011, c. 674, §4 (AMD).]

C. For a resident receiving services, including medical care, goods, prescription drugs and other medications, outside a state institution, the commissioner may pay the provider of those services an amount no greater than the reimbursement rate applicable to that provider and that service under the Medicare fee schedule. [PL 2011, c. 674, §5 (NEW).]

[PL 2011, c. 674, §§3-5 (AMD).]

12. Prohibited acts. A person is guilty of contempt if that person fails to obey a subpoena when ordered to do so by a Justice of the Superior Court under subsection 6, upon application by the commissioner to the Superior Court for an order of contempt.

[RR 2019, c. 2, Pt. B, §92 (COR).]

13. Special revenue account; Riverview Psychiatric Center. The commissioner shall establish a special revenue account for the Riverview Psychiatric Center and shall deposit into it payments or income received from residents of the Riverview Psychiatric Center, the Medicaid program or other 3rd-party payors. The commissioner shall use the funds on deposit for expenses of the Riverview Psychiatric Center.

[PL 2011, c. 674, §6 (AMD).]

14. Special revenue account; Dorothea Dix Psychiatric Center. The commissioner shall establish a special revenue account for the Dorothea Dix Psychiatric Center and shall deposit into it payments or income received from residents of the Dorothea Dix Psychiatric Center, the Medicaid program or other 3rd-party payors. The commissioner shall use the funds on deposit for expenses of the Dorothea Dix Psychiatric Center.

[PL 1991, c. 528, Pt. Q, §6 (NEW); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. Q, §6 (NEW); PL 2005, c. 236, §3 (REV).]

15. General Fund accounts; disproportionate share hospital match. The commissioner shall establish General Fund accounts to provide the General Fund match for eligible disproportionate share hospital components in the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes. Available unencumbered balances at the end of each fiscal year in the Personal Services line category of the accounts may be transferred to the All Other line category by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

[PL 2011, c. 1, Pt. S, §2 (AMD).]

16. Store established. The commissioner may establish a store within the Riverview Psychiatric Center for the retail sale of sundries and gift items.
[PL 2003, c. 673, Pt. I, §1 (NEW).]

17. Riverview Psychiatric Center Store account. The commissioner may establish a nonlapsing Other Special Revenue Funds account for a store located in the Riverview Psychiatric Center pursuant to the authority under subsection 16 and shall deposit into it payments or income received from customers of the store. The commissioner shall use the funds on deposit for expenses of the store.
[PL 2003, c. 673, Pt. I, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §5 (AMD). PL 1983, c. 701, §6 (AMD). PL 1991, c. 528, §Q6 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §Q6 (AMD). PL 1991, c. 780, §DD1 (AMD). PL 1993, c. 508, §J1 (AMD). PL 2003, c. 673, §I1 (AMD). PL 2005, c. 236, §3 (REV). PL 2005, c. 256, §§1-5 (AMD). PL 2005, c. 457, §NN4 (AMD). PL 2005, c. 457, §NN8 (AFF). PL 2005, c. 683, §§B29,30 (AMD). PL 2009, c. 571, Pt. SSS, §1 (AMD). PL 2011, c. 1, Pt. S, §2 (AMD). PL 2011, c. 674, §§1-6 (AMD). RR 2019, c. 2, Pt. B, §§90-92 (COR).

§1410. Posting of political material

The chief administrative officer of each state institution shall provide in at least one accessible area in each institution an appropriate space for the posting of written political material sent for that purpose to the chief administrative officer by candidates for state office or federal office in this State. [PL 1983, c. 459, §7 (NEW).]

1. One item limit. Not more than one item of written political material may be posted in one place on behalf of any one candidate.
[PL 1983, c. 459, §7 (NEW).]

2. Removal. Written political material shall be removed after the elections for which it is intended for use.
[PL 1983, c. 459, §7 (NEW).]

3. Voting place. If there is a voting place within the institution, the posting place may not be located within 250 feet of the entrance to the voting place.
[PL 1983, c. 459, §7 (NEW).]

4. Violation. The posting of written political material under this section is not a violation of Title 21-A, section 32 or Title 21-A, section 674, subsection 1, paragraph C.
[PL 1993, c. 473, §44 (AMD); PL 1993, c. 473, §46 (AFF).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 506, §A71 (AMD). PL 1993, c. 473, §44 (AMD). PL 1993, c. 473, §46 (AFF).

§1411. Public ways and parking areas

1. Rules. The chief administrative officers of state institutions may promulgate and enforce rules, subject to the approval of the commissioner, governing the use of public ways and parking areas maintained by the State at the state institutions.

A. The rules shall be promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1983, c. 459, §7 (NEW).]

B. The Secretary of State shall forward a copy of the rules, attested under the Great Seal of the State, to the District Court in the area of jurisdiction. [PL 1983, c. 459, §7 (NEW).]
[PL 1983, c. 459, §7 (NEW).]

2. Special police officers. The chief administrative officers of state institutions may appoint and employ, subject to the Civil Service Law, special police officers for the purpose of enforcing rules promulgated under subsection 1.

A. The special police officers shall:

(1) Patrol all the public ways and parking areas subject to this section;

(2) Enforce rules promulgated under this section; and

(3) Arrest and prosecute violators of the rules. [PL 1983, c. 459, §7 (NEW).]

B. The State Police, sheriffs, deputy sheriffs, police officers and constables who have jurisdiction over the areas in which the institutions are located shall, insofar as possible, cooperate with the special police officers in the enforcement of the rules promulgated under subsection 1. [PL 1983, c. 459, §7 (NEW).]

[PL 1985, c. 785, Pt. B, §164 (AMD).]

3. Court procedure. The District Court in the areas in which the institutions are located has jurisdiction in all proceedings brought under this section.

A. The District Court shall take judicial notice of all rules promulgated under subsection 1. [PL 1983, c. 459, §7 (NEW).]

B. In any prosecution for a violation of the rules, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

4. Prohibited acts; fine. A person who violates any rule adopted under this section commits a civil violation for which a fine may be adjudged in an amount consistent with the amount charged for a similar violation by the municipality in which the institution is located, but not to exceed the maximum amount provided for a traffic infraction under Title 29-A, section 103. Notwithstanding any other law, the fines and costs of court paid under this section inure to the municipality in which the proceedings take place.

A. [PL 1991, c. 313 (RP).]

B. [PL 1991, c. 313 (RP).]

C. [PL 1991, c. 313 (RP).]

D. [PL 1991, c. 313 (RP).]

[PL 2013, c. 381, Pt. C, §5 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 785, §B164 (AMD). PL 1991, c. 313 (AMD). PL 1995, c. 65, §A136 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2013, c. 381, Pt. C, §5 (AMD).

§1412. Military and Naval Children's Home

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 503, §5 (RP).

ARTICLE 2

CLIENTS GENERALLY

§1430. Rights

Any resident of a state institution has a right to nutritious food in adequate quantities, adequate professional medical care, an acceptable level of sanitation, ventilation and light, a reasonable amount of space per person in any sleeping area, a reasonable opportunity for physical exercise and recreational activities, protection against any physical or psychological abuse and a reasonably secure area for the maintenance of permitted personal effects. [PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§1431. Indefinite convalescent status

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Living conditions" includes, but is not limited to, the physical conditions of a residential facility, the individual treatment plan provided for each outpatient client and the programs for treatment available to and appropriate for each outpatient client. [PL 1983, c. 459, §7 (NEW).]

B. "Residential facility" means a boarding home, nursing home, foster home, group home or halfway house licensed by the Department of Health and Human Services or used by the Department of Health and Human Services. [PL 1983, c. 459, §7 (NEW); PL 1995, c. 560, Pt. K, §82 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 1983, c. 459, §7 (NEW); PL 1995, c. 560, Pt. K, §82 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Requirements. The chief administrative officer of any state institution, or a person designated by the chief administrative officer, may place any person who has been hospitalized based on a diagnosis of mental illness, intellectual disability or autism, except residents described in chapter 3, subchapter 4, article 2, on indefinite convalescence status, if the officer or the officer's designee determines that the residential facility in which the person will be residing is at least equivalent in the quality of living conditions to the state institution in which the person is hospitalized.
[PL 2011, c. 542, Pt. A, §73 (AMD).]

3. Standards. The commissioner shall establish standards for assessing whether or not living conditions in residential facilities are equivalent to the existing living conditions in state institutions.
[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 542, Pt. A, §73 (AMD).

§1432. Administration of medication

The administration of medication in state institutions shall be in accordance with rules established by the State Board of Nursing. [PL 1983, c. 459, §7 (NEW).]

1. Maine Administrative Procedure Act. The State Board of Nursing shall establish rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.
[PL 1983, c. 459, §7 (NEW).]

2. Considerations. In establishing rules for each type of state institution, the State Board of Nursing shall consider, among other factors:

A. The general health of the persons likely to receive medication; [PL 1983, c. 459, §7 (NEW).]

B. The number of persons served by the institution; and [PL 1983, c. 459, §7 (NEW).]

C. The number of persons employed at the institution. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§1433. Aliens

1. Notification of immigration officer. When a person is admitted or committed to a state, county, city or private institution which is supported wholly or in part by public funds, the chief administrative officer of the institution shall inquire at once into the nationality of the person and, if it appears that the person is an alien, the chief administrative officer shall notify immediately the United States immigration officer in charge of the district in which the institution is located, of:

A. The date of and the reason for the alien's admission or commitment; [PL 1983, c. 459, §7 (NEW).]

B. The length of time for which the alien is admitted or committed; [PL 1983, c. 459, §7 (NEW).]

C. The country of which the alien is a citizen; and [PL 1983, c. 459, §7 (NEW).]

D. The date on which and the port at which the alien last entered the United States. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

2. Copy of record to immigration officer. Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien to a state, county, city or private institution which is supported wholly or in part by public funds, the clerk of the court shall furnish without charge a certified copy of any record pertaining to the alien's case.

[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§1434. Resident's property presumed abandoned

Any property abandoned or unclaimed by a resident of a state institution must be disposed of according to Title 33, chapter 45. [PL 2019, c. 498, §24 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2003, c. 20, §T33 (AMD). PL 2019, c. 498, §24 (AMD).

§1435. Unnatural death of resident

When the death of any resident in a state institution is not clearly the result of natural causes, an examination and inquest shall be held as in other cases, and the commissioner or the chief administrative officer of the institution shall cause a medical examiner to be immediately notified for that purpose. [PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§1436. Rules regarding cardiopulmonary resuscitation

The department shall promulgate rules regarding the use of cardiopulmonary resuscitation in state institutions, pursuant to the Maine Administrative Procedure Act, Title 5, section 8053. [PL 1987, c. 305 (NEW).]

SECTION HISTORY

PL 1987, c. 305 (NEW). RR 2009, c. 2, §95 (COR).

SUBCHAPTER 4

NEGOTIATIONS WITH MUNICIPALITIES IN WHICH STATE INSTITUTIONS ARE LOCATED

§1602. Negotiations with municipalities

The Commissioner of Health and Human Services shall negotiate with officials of a municipality in which state institutions for both juveniles and adults constructed after the effective date of this section are located to provide state reimbursement to that municipality for the net increased costs that a new state institution imposes on that municipality. Negotiations may commence only upon request of municipal officials and only within 6 months after the net increased costs arise. As used in this section, unless the context otherwise indicates, the following terms have the following meanings: [PL 1995, c. 560, Pt. K, §28 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §7 (REV).]

1. State institution. "State institution" means those facilities outlined in section 1001, subsection 8.
[PL 1989, c. 591, §4 (NEW).]

2. Net increased costs. "Net increased costs" means the costs of those services rendered to the facility by the municipality and the costs of any adverse impact proximately caused by the operation of the facility, subtracted from the fair market value of those services rendered by the facility to the municipality.
[PL 1989, c. 591, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 591, §4 (NEW). PL 1995, c. 560, §K28 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B7 (REV).

SUBCHAPTER 5

FAMILY SUPPORT SERVICES

§1801. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 316, §2 (NEW).]

1. Crisis intervention. "Crisis intervention" means an unplanned and temporary service necessary to alleviate a crisis and preserve the living arrangements of a person who receives services from the department.
[PL 1991, c. 316, §2 (NEW).]

2. Family support services. "Family support services" means services that enable a family, which is otherwise eligible to receive services from the department, to maintain and care for its minor or adult member at home. Family support services include but are not limited to the following:

A. Dental and medical care; [PL 1991, c. 316, §2 (NEW).]

B. Respite care; [PL 1991, c. 316, §2 (NEW).]

C. Recreation and leisure activities; [PL 1991, c. 316, §2 (NEW).]

D. Homemaker services; [PL 1991, c. 316, §2 (NEW).]

E. Transportation; [PL 1991, c. 316, §2 (NEW).]

F. Personal assistance services; [PL 1991, c. 316, §2 (NEW).]

G. Home health services; [PL 1991, c. 316, §2 (NEW).]

H. Therapeutic and nursing services; [PL 1991, c. 316, §2 (NEW).]

I. Home and vehicle modifications; [PL 1991, c. 316, §2 (NEW).]

J. Equipment and supplies; [PL 1991, c. 316, §2 (NEW).]

K. Family counseling services; [PL 1991, c. 316, §2 (NEW).]

L. Communication services; [PL 1991, c. 316, §2 (NEW).]

M. Crisis intervention; [PL 1991, c. 316, §2 (NEW).]

N. Specialized utility costs; [PL 1991, c. 316, §2 (NEW).]

O. Integrated child care; [PL 1991, c. 316, §2 (NEW).]

P. Specialized diagnosis and evaluation; [PL 1991, c. 316, §2 (NEW).]

Q. Specialized nutrition and clothing; [PL 1991, c. 316, §2 (NEW).]

R. Family education and training; [PL 1991, c. 316, §2 (NEW).]

S. Service coordination; [PL 1991, c. 316, §2 (NEW).]

T. Information services; [PL 1991, c. 316, §2 (NEW).]

U. Assistive technology; and [PL 1991, c. 316, §2 (NEW).]

V. Permanency planning. [PL 1991, c. 316, §2 (NEW).]

[PL 1991, c. 316, §2 (NEW).]

3. Respite care. "Respite care" means a temporary service that provides a respite to a family in a planned and predictable manner. Respite care may include but is not limited to bringing outside caretakers into the home and bringing a child outside the home for services.
[PL 1991, c. 316, §2 (NEW).]

4. Service coordination. "Service coordination" means a lifelong, goal-oriented process for coordination of the range of services needed and wanted by persons with disabilities and their families.
[PL 1991, c. 316, §2 (NEW).]

5. Therapeutic services. "Therapeutic services" means occupational, physical, speech and language, respiratory, and vision therapy, counseling and other therapies to increase, maintain or improve the functional capabilities of persons with disabilities.
[PL 1991, c. 316, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 316, §2 (NEW).

§1802. Principles of family support

The department shall provide family support services in accordance with the following principles.
[PL 1991, c. 316, §2 (NEW).]

1. Importance of family setting and home care. Children, regardless of the type or severity of their disabilities, belong with and do best with families. Accordingly, families should receive whatever support is necessary to care for their family members with disabilities at home.
[PL 1991, c. 316, §2 (NEW).]

2. Focus on whole family. Family support must focus on the needs of the entire family.
[PL 1991, c. 316, §2 (NEW).]

3. Flexibility. Family needs change over time and family support must be flexible and responsive to the unique needs and strengths of individual families.
[PL 1991, c. 316, §2 (NEW).]

4. Integration. Families should be supported to fully integrate their family members with disabilities into education, employment and social settings in their own communities. Support to families must build on social networks and other sources of support that exist in their communities.
[PL 1991, c. 316, §2 (NEW).]

5. Long-term support. Family support is needed throughout the life spans of family members with disabilities.
[PL 1991, c. 316, §2 (NEW).]

6. Family expertise. Families should be recognized as experts regarding the needs of their members with disabilities. The family should be the primary decision-making unit regarding the support, services and opportunities it needs. Accordingly, families must be included in the planning and implementation of family support systems.
[PL 1991, c. 316, §2 (NEW).]

7. Family contributions. Families that have members with disabilities should be recognized for enriching the lives of all citizens through their contributions to the economic health and social fabric of the State.
[PL 1991, c. 316, §2 (NEW).]

8. Individual needs and aspirations. People with disabilities have personal needs and preferences to live, work, learn, grow and to have relationships. People with disabilities have abilities, competencies and aspirations and should be supported to pursue their personal desires and reach their fullest potential.
[PL 1991, c. 316, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 316, §2 (NEW).

§1803. Family support policy coordination

(REPEALED)

SECTION HISTORY

PL 1991, c. 316, §2 (NEW). PL 1995, c. 560, §K29 (AMD). PL 1999, c. 668, §123 (AMD). PL 1999, c. 731, §L3 (RP). PL 2001, c. 471, §A35 (RP).

§1804. Regional family support councils

(REPEALED)

SECTION HISTORY

PL 1991, c. 316, §2 (NEW). PL 1999, c. 668, §124 (RP). PL 1999, c. 731, §L4 (RP).

§1805. Maine Family Support Council

(REPEALED)

SECTION HISTORY

PL 1991, c. 316, §2 (NEW). PL 1999, c. 668, §124 (RP). PL 1999, c. 731, §L4 (RP).

§1806. Authority to provide family support services

The commissioner may provide family support services directly from the department or through agreements with community agencies. Agreements with community agencies must be in accordance with section 1208, subsections 2 and 3. [PL 1991, c. 316, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 316, §2 (NEW).

§1807. Rules

The commissioner shall adopt rules in accordance with Title 5, chapter 375 to implement this subchapter. [PL 1991, c. 316, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 316, §2 (NEW).

SUBCHAPTER 6

REPORTING ANIMAL CRUELTY, ABUSE OR NEGLECT

§1901. Animal cruelty, abuse or neglect; reporting

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Animal" means every living, sentient creature not a human being. [PL 2007, c. 140, §9 (NEW).]

B. "Cruelty, abuse or neglect" means every act, omission or instance of neglect when unnecessary or unjustifiable pain or suffering is caused or permitted. [PL 2007, c. 140, §9 (NEW).]

C. "Owner" means a person, firm, partnership, association or corporation owning, keeping or harboring an animal. [PL 2007, c. 140, §9 (NEW).]

D. "Reasonably suspect" means to hold an objectively reasonable suspicion based upon facts that would cause a reasonable person in a like position to draw on that person's training or experience to suspect animal cruelty, abuse or neglect. [PL 2007, c. 140, §9 (NEW).]

[PL 2007, c. 140, §9 (NEW).]

2. Report. An employee of a state-funded child or adult protective services agency or other social service agency, including those providing mental health services that are funded or licensed by the department, while acting in the employee's professional capacity or within the scope of the employee's employment, who has knowledge of or observes an animal that the employee knows or reasonably suspects has been the victim of cruelty, abuse or neglect may report the known or reasonably suspected animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902.
[PL 2007, c. 140, §9 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

3. Duty. Nothing in this section may be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse or neglect.
[PL 2007, c. 140, §9 (NEW).]

4. Immunity from liability. A person participating in good faith in reporting under this subchapter is immune from any civil or criminal liability that might otherwise result from these actions, including, but not limited to, any civil or criminal liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

[PL 2007, c. 140, §9 (NEW).]

SECTION HISTORY

PL 2007, c. 140, §9 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

SUBCHAPTER 7

MENTAL HEALTH HOMICIDE, SUICIDE AND AGGRAVATED ASSAULT REVIEW BOARD

§1931. Mental Health Homicide, Suicide and Aggravated Assault Review Board (REPEALED)

SECTION HISTORY

PL 2007, c. 609, §2 (NEW). PL 2017, c. 93, §2 (RP).

SUBCHAPTER 8

REPORTING AND DOCUMENTATION OF INCIDENTS OF USE OF SECLUSION AND RESTRAINT

§1951. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2015, c. 266, §1 (NEW).]

1. Institution. "Institution" means a public or private psychiatric institution licensed under Title 22, chapter 404 or 405 to provide psychiatric services that fall under the jurisdiction of the department. [RR 2015, c. 2, §23 (COR).]

2. Restraint. "Restraint" has the same meaning as defined in 42 Code of Federal Regulations, Section 482.13.
[PL 2015, c. 266, §1 (NEW).]

3. Seclusion. "Seclusion" has the same meaning as defined in 42 Code of Federal Regulations, Section 482.13.
[PL 2015, c. 266, §1 (NEW).]

4. Unit. "Unit" means a hospital ward or other area used to provide inpatient care.
[PL 2015, c. 266, §1 (NEW).]

SECTION HISTORY

RR 2015, c. 2, §23 (COR). PL 2015, c. 266, §1 (NEW).

§1952. Reporting of an incident of restraint or seclusion

1. Quarterly reporting by institution. An institution shall submit for each calendar quarter a report to the commissioner that includes for that institution, organized by unit:

A. The hours of restraint for each 1,000 patient hours; [PL 2015, c. 266, §1 (NEW).]

B. The hours of seclusion for each 1,000 patient hours; [PL 2015, c. 266, §1 (NEW).]

C. The aggregate number of incidents of restraint; [PL 2015, c. 266, §1 (NEW).]

D. The aggregate number of incidents of seclusion; [PL 2015, c. 266, §1 (NEW).]

E. The maximum and mean duration, across all patients, of incidents of restraint; [PL 2015, c. 266, §1 (NEW).]

F. The maximum and mean duration, across all patients, of incidents of seclusion; and [PL 2015, c. 266, §1 (NEW).]

G. Any other information that may be useful regarding the use of restraint or seclusion. [PL 2015, c. 266, §1 (NEW).]

[PL 2015, c. 266, §1 (NEW).]

2. Annual reporting by institution. Annually, as soon as practicable after completing the formal quarterly report for the preceding year, an institution shall submit a report to the commissioner with the data required under subsection 1, paragraphs A to G, organized by unit.
[PL 2015, c. 266, §1 (NEW).]

3. Annual report by the commissioner. By January 1st of each year, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over health and human services matters a report that includes the data submitted pursuant to subsection 1 for the previous fiscal year. The joint standing committee of the Legislature having jurisdiction over health and human services matters may report out legislation relating to the report to the next regular session of the Legislature.
[PL 2015, c. 266, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 266, §1 (NEW).

§1953. Restraint and seclusion debriefing policy

All institutions must develop a policy for a debriefing of a client who was the subject of restraint or seclusion. The policy may not prevent a legally responsible parent, guardian or designated representative from attending the debriefing. [PL 2015, c. 266, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 266, §1 (NEW).

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