

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 1193 - L.D. 1863

**An Act to Facilitate the Provision of Medically Appropriate Levels of Care
for Clients of Correctional Facilities**

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

Sec. 1. 34-A MRSA §1402, sub-§5, as amended by PL 2021, c. 620, §4, is further amended to read:

5. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients. The commissioner shall establish a separate grievance process for addressing complaints by prisoners about their medical and mental health treatment as well as a separate grievance process for addressing complaints regarding compliance with the standards established pursuant to sections 1208, 1208-A and 1208-B. The commissioner shall track data for all grievances filed by prisoners about their medical or mental health treatment and shall publish monthly on the department's publicly accessible website the data tracked pursuant to this subsection in a manner that does not violate the confidentiality requirements of section 1216 or any other provision of state or federal law.

Sec. 2. 34-A MRSA §3036-A, sub-§10, as amended by PL 2023, c. 399, §1, is further amended to read:

10. Terminally ill or incapacitated prisoner. With the consent of the prisoner, the commissioner may transfer a prisoner committed to the department from a correctional facility to supervised community confinement without meeting the eligibility requirements of subsection 2, paragraphs B and C and without meeting the criteria or fulfilling the process provided for under subsection 2-A if the department's director of medical care has determined that the prisoner has a terminal or severely incapacitating medical condition or has a worsening prognosis that is likely to result in a terminal or severely incapacitating medical condition and that care outside a correctional facility is medically appropriate. Except as set out in this subsection, the prisoner must live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or a facility that is a licensed hospice program pursuant to Title 22, section 8622, approved by the commissioner. As approved by the commissioner, the prisoner may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services provided by an entity approved by the commissioner and, subject to approval by the commissioner, may

live at home while receiving these services. The commissioner may exempt a prisoner transferred to supervised community confinement pursuant to this subsection from any mandatory condition under subsection 3 that the commissioner determines to be inapplicable. The prisoner shall provide any information pertaining to the prisoner's medical condition or care that is requested by the commissioner at any time while the prisoner is on supervised community confinement. If the commissioner determines that the prisoner has failed to fully comply with a request or if at any time the department's director of medical care determines that the prisoner does not have a terminal or severely incapacitating medical condition or a worsening prognosis that is likely to result in a terminal or severely incapacitating medical condition or that care outside a correctional facility is not medically appropriate, the commissioner shall revoke the transfer to supervised community confinement.

Sec. 3. 34-A MRSA §3036-A, sub-§12, as enacted by PL 2021, c. 376, §6, is amended to read:

12. Information for prisoners. The department shall make available to all prisoners written information about supervised community confinement, including eligibility requirements, the application process and the criteria and process for determining whether a prisoner eligible for transfer to supervised community confinement may be approved for transfer. The department shall include information about the determination and approval process for prisoners who have a terminal or severely incapacitating medical condition or have a worsening prognosis that is likely to result in a terminal or severely incapacitating medical condition and for whom care outside a correctional facility is medically appropriate. The department shall publish this information on its publicly accessible website.

Sec. 4. 34-A MRSA §3036-A, sub-§13, as amended by PL 2023, c. 399, §2, is further amended to read:

13. Data tracking. The department shall track data for all prisoners who apply for supervised community confinement and approval, denial and, if approved, completion of the program. The department also shall track data for all prisoners who are transferred to supervised community confinement under subsection 10. Such data must include, but is not limited to, demographic data regarding race and ethnicity, gender, age and convictions leading to the prisoner's current incarceration. The department shall publish monthly on its publicly accessible website the data tracked pursuant to this subsection in a manner that does not violate the confidentiality requirements of section 1216 or any other provision of state or federal law.