STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

H.P. 1309 - L.D. 1758

An Act Regarding Access to Telehealth Behavioral Health Services during Public Health Emergencies

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

Sec. 1. 22 MRSA §51 is enacted to read:

- §51. Exemption to written informed consent requirement for mental health services and substance use disorder treatment during public health emergency
- 1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
 - A. "Licensed facility" means a facility licensed under Title 5, section 20005, subsection 6, paragraph B or Title 34-B, section 1203-A.
 - B. "Public health emergency" means a federal public health emergency declared pursuant to 42 United States Code, Section 247d or a state public health emergency declared pursuant to section 802 or Title 37-B, chapter 13, subchapter 2.
- **2. Informed consent.** The department may not require a licensed facility to obtain written informed consent from a person receiving mental health services or substance use disorder treatment from the licensed facility during a public health emergency. A licensed facility shall obtain consent from a person receiving mental health services or substance use disorder treatment during a public health emergency; such consent may be obtained through verbal, electronic or written means.
- 3. Rulemaking. 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.
- **Sec. 2. Department of Health and Human Services to amend certain licensing rules.** No later than January 1, 2023, the Department of Health and Human Services shall amend its rules in 14-193 C.M.R. Chapter 6, Licensing of Mental Health Facilities, and 14-118 C.M.R. Chapter 5, Regulations for Licensing and Certifying of Substance Abuse Treatment Programs, to allow a facility licensed under the Maine Revised Statutes, Title 5, section 20005, subsection 6, paragraph B or Title 34-B, section 1203-A to

obtain consent through verbal, electronic or written means from a person during a public health emergency in accordance with Title 22, section 51. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.