

In Alphabetical Order

**Maine Revised Statutes**  
**Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES**  
**Chapter 19: Advisory councils**

**§19001. ACQUIRED BRAIN INJURY ADVISORY COUNCIL**

**1. Council established.** The Acquired Brain Injury Advisory Council, referred to in this section as "the council," is established to provide independent oversight and advice and to make recommendations to the commissioner.

[ 2011, c. 657, Pt. CC, §4 (AMD) .]

**2. Duties.** The council shall:

A. Identify issues related to brain injury, including prevention and the needs of individuals with disabilities due to brain injuries and the needs of their families; [2007, c. 239, §2 (NEW) .]

B. Recommend methods that will enhance health and well-being, promote independence and self-sufficiency, protect and care for those at risk and provide effective and efficient methods of prevention, service and support; [2007, c. 239, §2 (NEW) .]

C. Seek information from the broadest range of stakeholders, including persons with brain injuries, their families, rehabilitation experts, providers of services and the public, and hold at least 2 public hearings annually, in different regions of the State, to generate input on unmet needs; [2007, c. 239, §2 (NEW) .]

D. Review the status and effectiveness of the array of brain injury programs, services and prevention efforts provided in this State and recommend to the commissioner priorities and criteria for disbursement of available appropriations; and [2007, c. 239, §2 (NEW) .]

E. Meet at least 4 times per year and by January 15th of each year submit a report of its activities and recommendations to the commissioner and to the Legislature. [2007, c. 239, §2 (NEW) .]

[ 2007, c. 239, §2 (NEW) .]

**3. Administrative support.** The department shall provide administrative support to the council.

[ 2011, c. 657, Pt. CC, §4 (AMD) .]

**4. Membership.** The commissioner shall appoint 16 persons to serve as members of the council and shall annually appoint one person to serve as chair. Members serve 2-year terms. Members must represent the following persons and interests:

A. Two members with acquired brain injuries must represent persons with acquired brain injuries; [2007, c. 239, §2 (NEW) .]

B. Two members must represent families of persons with acquired brain injuries; [2007, c. 239, §2 (NEW) .]

C. Two members must represent advocates for persons with acquired brain injuries; [2007, c. 239, §2 (NEW) .]

D. Five members must represent providers of services to persons with acquired brain injuries; and [2007, c. 239, §2 (NEW) .]

E. Five members must represent state agencies with expertise in the areas of education, employment, prevention of brain injuries, homelessness, corrections and services to veterans. Members of the council who represent state agencies serve ex officio, without the right to vote, and shall provide data, information and expertise to the council. [2007, c. 239, §2 (NEW) .]

[ 2007, c. 239, §2 (NEW) .]

**5. Expenses.** Members of the council serve without compensation but are entitled to reimbursement of reasonable expenses for attending meetings of and serving on the council.

[ 2007, c. 239, §2 (NEW) .]

SECTION HISTORY

2007, c. 239, §2 (NEW). 2011, c. 657, Pt. CC, §4 (AMD) .

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SUBCHAPTER I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

PART A—GENERAL PROVISIONS

§ 15001. Findings, purposes, and policy

(a) Findings

Congress finds that—

(1) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural, and educational mainstream of United States society;

(2) in 1999, there were between 3,200,000 and 4,500,000 individuals with developmental disabilities in the United States, and recent studies indicate that individuals with developmental disabilities comprise between 1.2 and 1.65 percent of the United States population;

(3) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

(4) individuals with developmental disabilities often encounter discrimination in the provision of critical services, such as services in the areas of emphasis (as defined in section 15002 of this title);

(5) individuals with developmental disabilities are at greater risk than the general population of abuse, neglect, financial and sexual exploitation, and the violation of their legal and human rights;

(6) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services, including access to assistive technology, from generic and specialized service systems, and remain unserved or underserved;

(7) individuals with developmental disabilities often require lifelong community services, individualized supports, and other forms of assistance, that are most effective when provided in a coordinated manner;

(8) there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that ensures that individuals from racial and ethnic minority backgrounds are fully included in all activities provided under this subchapter;

(9) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family members, friends, and community members are provided with the necessary community services, individualized supports, and other forms of assistance;

(10) current research indicates that 88 percent of individuals with developmental disabilities live with their families or in their own households;

(11) many service delivery systems and communities are not prepared to meet the impending needs of the 479,862 adults with developmental disabilities who are living at home with parents who are 60 years old or older and who serve as the primary caregivers of the adults;

(12) in almost every State, individuals with developmental disabilities are waiting for appropriate services in their communities, in the areas of emphasis;

(13) the public needs to be made more aware of the capabilities and competencies of individuals with developmental disabilities, particularly in cases in which the individuals are provided with necessary services, supports, and other assistance;

(14) as increasing numbers of individuals with developmental disabilities are living, learning, working, and participating in all aspects of community life, there is an increasing need for a well trained workforce that is able to provide the services, supports, and other forms of direct assistance required to enable the individuals to carry out those activities;

(15) there needs to be greater effort to recruit individuals from minority backgrounds into professions serving individuals with developmental disabilities and their families;

(16) the goals of the Nation properly include a goal of providing individuals with developmental disabilities with the information, skills, opportunities, and support to—

(A) make informed choices and decisions about their lives;

(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

(C) pursue meaningful and productive lives;

(D) contribute to their families, communities, and States, and the Nation;

(E) have interdependent friendships and relationships with other persons;

(F) live free of abuse, neglect, financial and sexual exploitation, and violations of their legal and human rights; and

(G) achieve full integration and inclusion in society, in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual; and

(17) as the Nation, States, and communities maintain and expand community living options for individuals with developmental disabilities, there is a need to evaluate the access to those options by individuals with developmental disabilities and the effects of those options on individuals with developmental disabilities.

#### (b) Purpose

The purpose of this subchapter is to assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life, through culturally competent programs authorized under this subchapter, including specifically—

(1) State Councils on Developmental Disabilities in each State to engage in advocacy, capacity building, and systemic change activities that—

(A) are consistent with the purpose described in this subsection and the policy described in subsection (c) of this section; and

(B) contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system that includes needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families;

(2) protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

(3) University Centers for Excellence in Developmental Disabilities Education, Research, and Service—

(A) to provide interdisciplinary pre-service preparation and continuing education of students and fellows, which may include the preparation and continuing education of leadership, direct service, clinical, or other personnel to strengthen and increase the capacity of States and communities to achieve the purpose of this subchapter;

(B) to provide community services—

(1) that provide training and technical assistance for individuals with developmental disabilities, their families, professionals, paraprofessionals, policymakers, students, and other members of the community; and

(ii) that may provide services, supports, and assistance for the persons described in clause (i) through demonstration and model activities;

(C) to conduct research, which may include basic or applied research, evaluation, and the analysis of public policy in areas that affect or could affect, either positively or negatively, individuals with developmental disabilities and their families; and

(D) to disseminate information related to activities undertaken to address the purpose of this subchapter, especially dissemination of information that demonstrates that the network authorized under this part is a national and international resource that includes specific substantive areas of expertise that may be accessed and applied in diverse settings and circumstances; and

(4) funding for—

(A) national initiatives to collect necessary data on issues that are directly or indirectly relevant to the lives of individuals with developmental disabilities;

(B) technical assistance to entities who engage in or intend to engage in activities consistent with the purpose described in this subsection or the policy described in subsection (c) of this section; and

(C) other nationally significant activities.

#### (c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this subchapter shall be carried out in a manner consistent with the principles that—

(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of self-determination, independence, productivity, and integration and inclusion in all facets of community life, but often require the provision of community services, individualized supports, and other forms of assistance;

(2) individuals with developmental disabilities and their families have competencies, capabilities, and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individuals;

(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive, including regarding choosing where the individuals live from available options, and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

(4) services, supports, and other assistance should be provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

(5) specific efforts must be made to ensure that individuals with developmental disabilities from racial and ethnic minority back-

# Child Welfare Ombudsman

## Maine Revised Statutes

### Title 22: HEALTH AND WELFARE

#### Chapter 1071: CHILD AND FAMILY SERVICES AND CHILD PROTECTION ACT

##### §4087-A. OMBUDSMAN PROGRAM

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

A. "Ombudsman" means the director of the program and persons employed or volunteering to perform the work of the program. [2001, c. 439, Pt. X, §5 (NEW).]

B. "Program" means the ombudsman program established under this section. [2001, c. 439, Pt. X, §5 (NEW).]

[ 2001, c. 439, Pt. X, §5 (NEW) .]

**2. Program established.** The ombudsman program is established as an independent program within the Executive Department to provide ombudsman services to the children and families of the State regarding child welfare services provided by the Department of Health and Human Services. The program shall consider and promote the best interests of the child involved, answer inquiries and investigate, advise and work toward resolution of complaints of infringement of the rights of the child and family involved. The program must be staffed, under contract, by an attorney or a master's level social worker who must have experience in child development and advocacy, and support staff as determined to be necessary. The program shall function through the staff of the program and volunteers recruited and trained to assist in the duties of the program.

[ 2001, c. 439, Pt. X, §5 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

**3. Contracted services.** The program shall operate by contract with a nonprofit organization that the Executive Department determines to be free of potential conflict of interest and best able to provide the services on a statewide basis. The ombudsman may not be actively involved in state-level political party activities or publicly endorse, solicit funds for or make contributions to political parties on the state level or candidates for statewide elective office. The ombudsman may not be a candidate for or hold any statewide elective or appointive public office.

[ 2001, c. 439, Pt. X, §5 (NEW) .]

**4. Services.** The program shall provide services directly or under contract. The first priority in the work of the program and any contract for ombudsman services must be case-specific advocacy services. In performing services under this section, the program, as it determines to be appropriate, may create and maintain records and case-specific reports. Any work on systems improvements or lobbying must be adjunctive to case-specific activities. The program may:

A. Provide information to the public about the services of the program through a comprehensive outreach program. The ombudsman shall provide information through a toll-free telephone number or numbers; [2001, c. 439, Pt. X, §5 (NEW).]

B. Answer inquiries, investigate and work toward resolution of complaints regarding the performance and services of the department and participate in conferences, meetings and studies that may improve the performance of the department; [2001, c. 439, Pt. X, §5 (NEW).]

C. Provide services to persons to assist them in protecting their rights; [2001, c. 439, Pt. X, §5 (NEW).]



## TITLE 5, CHAPTER 439

### CHILDREN'S CABINET

#### §19131. Children's Cabinet

**1. Establishment.** The Children's Cabinet, referred to in this chapter as the "cabinet," is established to promote and support active, vigorous and frequent interdepartmental collaboration on children and youth policy development and program implementation supporting the provision of services for Maine families, children and youth that are planned, managed and delivered in an integrated manner to support and enhance educational opportunities, self-sufficiency, safety, economic stability, health and well-being.

**2. Membership.** The cabinet consists of the following members:

- A. The Commissioner of Corrections;
- B. The Commissioner of Education;
- C. The Commissioner of Health and Human Services;
- D.
- E. The Commissioner of Public Safety;
- F. The Commissioner of Labor; and
- G. At the discretion of the Governor, a member of the public, appointed by the Governor.

**3. Chair.** The Governor shall appoint one of the members serving pursuant to subsection 2, paragraphs A to F to serve as chair of the cabinet. The term of the chair is one year.

**4. Meetings.** The cabinet shall meet at least 4 times per year.

#### §19132. Duties of the cabinet

The cabinet shall collaborate to create, manage and promote coordinated policies, finances, programs and service delivery systems to support children, youth and families consistent with the purposes of this chapter. To accomplish these purposes, the cabinet shall carry out the following duties:

**1. Regional children's cabinets.** Appoint regional children's cabinets to ensure that the purposes of this chapter are implemented at the regional and local levels;

**2. Subcommittees.**

**3. Coordinated funding; collaboration.** Coordinate funding, grants and budgets among the departments of the cabinet related to child, youth and family services in order to carry out the purpose of this chapter, collaborate to share resources, remove barriers and support innovative initiatives, prevention and best practices that address health and behavioral problems in children and youth;

**4. Data collection, planning and policy development.** Determine effective data sources to allow analysis leading to integrated and innovative approaches to identified priority areas of need of the cabinet and conduct long-range planning and policy development leading to a more effective public and private service delivery system;

**5. Coordinated service delivery.**

**6. Assessment.**

**7. Policy and program review.** Update policies, statutes, rules and programs to ensure consistency across all departments in addressing the cabinet's priority areas;

**8. Communication.** Broadly and transparently communicate the work of the cabinet through a variety of mechanisms;

**9. Program implementation and oversight.** Initiate, implement and oversee programs, policies and services consistent with the purposes of this chapter; and

**10. Maine Children's Cabinet Early Childhood Advisory Council.** Oversee the Maine Children's Cabinet Early Childhood Advisory Council, established under section 24051, and direct a representative of the cabinet to meet at least once yearly with the Maine Children's Cabinet Early Childhood Advisory Council and consult with one or more state-designated groups representing youth issues regarding goals selected by the Maine Children's Cabinet Early Childhood Advisory Council.

#### **§19133. Program implementation and oversight**

The cabinet shall initiate, implement and oversee programs, policies and services consistent with the purposes of this chapter.

- 1. Communities for Children.**
- 2. Effectiveness indicators.**
- 3. Safe homes.**
- 4. Civil and caring school environments.**
- 5. Supportive communities.**
- 6. Reducing suicide.**
- 7. Access to information and referral.**
- 8. Service coordination.**
- 9. Ensuring services.**
- 10. Local case review and resolution; pooled funds.**

#### **§19134. Funds**

The cabinet is authorized to request, receive and pool funds from the Federal Government, any department, office or political subdivision of the State or any individual, foundation or corporation and may expend those funds for purposes that are consistent with this chapter.

#### **§19135. Annual report**

The cabinet shall provide an annual report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over criminal justice matters, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Chief Justice of the Supreme Court. A copy of the report must be made available to the public.



**Maine Revised Statutes**  
**Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES**  
**Chapter 3: MENTAL HEALTH**

**§3611. CONSUMER COUNCIL SYSTEM OF MAINE**

In order to promote high-quality adult mental health services, the Consumer Council System of Maine, established in Title 5, section 12004-I, subsection 60-B and referred to in this section as "the council system," is established to provide an effective, independent consumer voice in an advisory capacity in the development of public policy and resource allocation. The council system consists of the Statewide Consumer Council established in subsection 6 and local councils. [2007, c. 592, §2 (NEW) .]

**1. Independent public instrumentality.** The council system exists as an independent public instrumentality of the State to provide guidance and advice from consumers of adult mental health services provided or funded by the State regarding the delivery of effective and appropriate adult mental health services consistent with the State's comprehensive mental health services plan and to comply with the consent decree and incorporated settlement agreement in the case of Paul Bates, et al. v. Robert Glover, et al., Kennebec County Superior Court, Civil Action Docket No. CV-89-88 dated August 2, 1990.

[ 2007, c. 592, §2 (NEW) .]

**2. Governmental functions; tort claims.** Exercise of the powers conferred by this section is the performance of an essential governmental function. The council system must be considered as within the definition of "State" for the purposes of Title 14, section 8102, subsection 4. The council system is not considered an agency of the State for the purposes of budgeting, accounts and control, auditing, contracting and purchasing.

[ 2007, c. 592, §2 (NEW) .]

**3. Duties.** As pertains to the delivery of mental health services for adults, the council system shall:

A. Advise the department, the Governor and other state agencies. This duty includes advising the department on the review, analysis and evaluation of adult mental health programs, policies, procedures and service delivery systems administered or funded by the State and the hiring of personnel when appropriate; [2007, c. 592, §2 (NEW) .]

B. Assist the department in program design and implementation, including assessment of the quality of services and delivery systems and prioritization of programming; [2007, c. 592, §2 (NEW) .]

C. Provide consumers with a recognized mechanism for collaboration with State Government, including addressing issues with persons and entities that provide services through contracts with the department; [2007, c. 592, §2 (NEW) .]

D. Provide input regarding programs, evaluation, public policy and resource allocation and address issues and concerns that arise at the local level; [2007, c. 592, §2 (NEW) .]

E. Identify, research and respond to issues of importance to consumers, including requesting information and data to facilitate informed decision making; [2007, c. 592, §2 (NEW) .]

F. Interact with state agencies, community entities and other organizations; [2007, c. 592, §2 (NEW) .]

G. Provide budget requests to fund the council system to the department for each biennial budget and each supplemental budget; and [2007, c. 592, §2 (NEW) .]

H. Make annual and interim recommendations to State Government and provide by May 31st of each year a report to the Governor and the Legislature. The report must include analysis of state programs, policies and procedures, legislative and regulatory proposals and recommendations for action by the State. [2007, c. 592, §2 (NEW).]

[ 2007, c. 592, §2 (NEW) .]

**4. Powers.** The council system may:

A. Contract for staff assistance or hire employees, including an executive director or project manager and such other staff as necessary, to conduct the activities of and support the duties of the council system. Employees of the council system are not state employees; however, they are immune from civil liability for acts that they perform in good faith within the scope of their duties for the council system; [2007, c. 592, §2 (NEW).]

B. Reimburse members of the Statewide Consumer Council established in subsection 6 and local council members who are not otherwise fully reimbursed for expenses of participating in council system meetings from the council system budget in an amount up to the legislative per diem rate for participation in Statewide Consumer Council and local council meetings, plus reimbursement for reasonable and necessary expenses actually incurred, including but not limited to costs incurred for travel, child care for the member's child and substitute care for dependent adults. A standard statewide rate of reimbursement, including reduced reimbursement for a member entitled to partial reimbursement from any other source, must be approved by the Statewide Consumer Council. To the extent allowable under federal law, reimbursement under this paragraph may not be counted as income, resources or assets for the purposes of determining eligibility for benefits under any state or municipal program of assistance or health coverage for which a council member may be eligible; [2007, c. 592, §2 (NEW).]

C. Engage in advocacy regarding legislative and regulatory initiatives; and [2007, c. 592, §2 (NEW).]

D. Provide interim reports to the Governor and the Legislature and respond to written responses from the department under subsection 5. [2007, c. 592, §2 (NEW).]

[ 2007, c. 592, §2 (NEW) .]

**5. Written response.** No later than September 30th of each year, the commissioner shall provide a written response to the council system's annual report under subsection 3, paragraph H to the chair of the Statewide Consumer Council, the Governor and the Legislature. The response must:

A. Address the actions that the department plans to take or proposes to implement with regard to the recommendations contained in the council system's annual report and any interim reports or the reasons for declining to take or propose action; and [2007, c. 592, §2 (NEW).]

B. Include a report on progress in implementing actions detailed in prior department written reports under this subsection. [2007, c. 592, §2 (NEW).]

[ 2007, c. 592, §2 (NEW) .]

**6. Statewide Consumer Council.** The provisions of this subsection govern the membership, duties and operation of the Statewide Consumer Council, as established in Title 5, section 12004-I, subsection 60-B.

A. The Statewide Consumer Council consists of 16 to 30 members who represent the local councils, described in subsection 7, after being elected at local council meetings on a schedule established by the Statewide Consumer Council. [2007, c. 592, §2 (NEW).]

B. Members of the Statewide Consumer Council shall annually elect a coordinating committee consisting of a chair, vice-chair, secretary and treasurer. Officers serve for terms of one year and are eligible for reelection. [2007, c. 592, §2 (NEW).]

C. The Statewide Consumer Council shall:

- (1) Convene at least 4 regular meetings per year and special meetings as the Statewide Consumer Council determines necessary;
- (2) Establish an application procedure by which the Statewide Consumer Council may recognize a local council;
- (3) Determine the timing of and procedures for elections by local councils to elect representatives to the Statewide Consumer Council;
- (4) Apportion the number of representatives each local council will have on the Statewide Consumer Council; and
- (5) Adopt policies and procedures regarding removal for good cause of a Statewide Consumer Council member. [2007, c. 592, §2 (NEW).]

D. Meetings of the Statewide Consumer Council or such subcommittees as may be formed from the council membership may be held to perform the duties listed in subsection 3 and:

- (1) To receive, review and distribute the recommendations of the local councils and prepare the council system's annual report and any interim reports;
- (2) To develop a mechanism for communication with department personnel that ensures timely responses to issues and concerns identified by the council system and that provides a formal means of communication with the commissioner and high-level department personnel;
- (3) To advise and engage in dialogue with the department concerning oversight, evaluation, unmet needs, quality assurance and quality improvement, design of new program initiatives and prioritization of programming; and
- (4) To oversee and manage the council system, including assumption of responsibility for the development of local councils in unrepresented areas. [2007, c. 592, §2 (NEW).]

E. The Statewide Consumer Council shall adopt policies and procedures for the operation of the Statewide Consumer Council and the local councils. The policies must:

- (1) Require that local councils file with the Statewide Consumer Council periodic reports and maintain records of meetings and business conducted, a list of members elected to the Statewide Consumer Council and leadership and financial records; and
- (2) Require that the Statewide Consumer Council file with the department periodic reports and maintain records of meetings and business conducted, policies and procedures adopted and financial records as required by contract with the department. [2007, c. 592, §2 (NEW).]

[ 2007, c. 592, §2 (NEW) .]

**7. Local councils.** The provisions of this subsection govern the membership, duties and operation of the local councils.

A. Each local council shall follow the policies and procedures for local councils adopted by the Statewide Consumer Council pursuant to subsection 6. [2007, c. 592, §2 (NEW).]

B. Each local council shall hold regular meetings, at least 4 per year and more if determined necessary by the local council, for the purpose of discussing and reviewing the delivery of adult mental health services to consumers and shall engage in other activities:

- (1) To reach out to all persons in the surrounding community to encourage participation in the local council, to stimulate and receive local consumer advice and to gain awareness of local concerns, needs and ideas, including identifying concerns of persons who do not usually participate in the local council meetings;
- (2) To advocate for and provide advice regarding local response to local issues;
- (3) To advise the department, State Government and independent contractors on local responses to local issues through communication with the Statewide Consumer Council;

- (4) To elect representatives to the Statewide Consumer Council; and
- (5) To communicate with the Statewide Consumer Council via elected members and reports regarding issues of concern identified by the local council. [2007, c. 592, §2 (NEW) .]

[ 2007, c. 592, §2 (NEW) .]

**8. Funding.** Funding for the council system must be included as part of the Governor's proposed budget for the department. The council system may accept gifts, grants and other funds and contributions for use in performing the duties of the council system as long as such gifts, grants, funds and contributions are in accordance with state laws prohibiting conflicts of interest.

[ 2007, c. 592, §2 (NEW) .]

**9. General provisions.** The provisions of this subsection apply to the council system.

A. A Statewide Consumer Council member or elected local council member may not cast a vote on any matter that would provide any direct or indirect financial benefit to that member or otherwise give the appearance of a conflict of interest under state law. [2007, c. 592, §2 (NEW) .]

B. A person may not be excluded from the council system or discriminated against within the council system by reason of race, creed, color, gender, sexual orientation, age, marital status, homelessness, national origin, disability or status as a consumer of mental health services. [2007, c. 592, §2 (NEW) .]

C. Meetings of the Statewide Consumer Council and local councils are public proceedings and their records are public records for the purposes of Title 1, chapter 13. [2007, c. 592, §2 (NEW) .]

[ 2007, c. 592, §2 (NEW) .]

**SECTION HISTORY**

2007, c. 592, §2 (NEW) .

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# Disability Rights Maine

## Maine Revised Statutes

### Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES

#### Chapter 5: INTELLECTUAL DISABILITIES AND AUTISM

##### §5005-A. ADVOCACY AGENCY

**1. Agency.** The department shall contract with the agency designated pursuant to Title 5, section 19502, referred to in this section as "the agency," to provide the services described in subsection 2 to individuals with intellectual disabilities or autism.

[ 2011, c. 657, Pt. EE, §5 (NEW) .]

**2. Duties.** The department shall contract with the agency to perform the following duties statewide in at least 5 geographically dispersed locations.

A. The agency shall receive complaints made by or on behalf of individuals with intellectual disabilities or autism and represent their interests in any matter pertaining to their rights and dignity. [2013, c. 310, §2 (AMD).]

B. The agency shall investigate the claims, grievances and allegations of violations of the rights of individuals with intellectual disabilities or autism. [2013, c. 310, §2 (AMD).]

C. The agency may pursue legal, administrative and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of individuals with intellectual disabilities or autism who are or may be eligible for services administered, licensed or funded by the department, except that the agency may refuse to take action on any complaint that it considers to be trivial, to be moot or to lack merit or for which there is clearly another remedy available. [2013, c. 310, §2 (AMD).]

D. [2013, c. 310, §2 (RP).]

E. The agency may refer individuals with intellectual disabilities or autism to other agencies or entities and collaborate with those agencies or entities for the purpose of advocating for the rights and dignity of those individuals. [2013, c. 310, §2 (AMD).]

F. The agency shall act as an information source regarding the rights of all individuals with intellectual disabilities or autism, keeping itself informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of those individuals and about relevant legal decisions and other developments related to the fields of mental health, intellectual disabilities and autism, both in this State and in other parts of the country. [2013, c. 310, §2 (AMD).]

G. The agency may make and publish reports necessary to the performance of the duties described in this section. The agency may report its findings to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press. At least annually, the agency shall report both in person and in writing to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the department regarding the performance of the duties described in this section. [2013, c. 310, §2 (AMD).]

H. The agency may monitor the delivery of services, supports and other assistance or residential services or treatment provided to persons with intellectual disabilities or autism for the purpose of ensuring that services, supports and assistance meet the needs of those persons and are delivered in conformity with laws, regulations, rules and other standards regarding quality of care. [2013, c. 310, §2 (NEW).]

[ 2013, c. 310, §2 (AMD) .]

**3. Participate in personal planning.** The agency may participate in personal planning when the agency has concerns regarding the rights or dignity of a person with intellectual disabilities or autism. A person has the right to refuse such participation.

[ 2011, c. 657, Pt. EE, §5 (NEW) .]

**4. Access to files and records.** The agency has access, limited only by the civil service law, to the files, records and personnel of any provider of services, including the files and records of any person with an intellectual disability or autism held by any provider of service, administered, licensed or funded by the department and to all reports and related documents submitted pursuant to section 5604-A.

[ 2013, c. 310, §3 (AMD) .]

**4-A. Access to individuals.** The agency has access to individuals pursuant to Title 5, section 19506.

[ 2013, c. 310, §4 (NEW) .]

**5. Confidentiality.** The following provisions govern confidentiality.

A. Any request by or on behalf of an individual with intellectual disabilities or autism for action by the agency and all written records or accounts related to the request are confidential as to the identity of the individual. [2011, c. 657, Pt. EE, §5 (NEW) .]

B. The records and accounts under paragraph A may be released only as provided by law. [2011, c. 657, Pt. EE, §5 (NEW) .]

C. Records maintained by the agency are the sole property of the individual with intellectual disabilities or autism to whom the records pertain and the agency shall protect the records from loss, damage, tampering or use by unauthorized individuals. The agency shall keep the records confidential and may not release them without written consent from the individual with intellectual disabilities or autism or the individual's guardian. [2013, c. 310, §5 (NEW) .]

[ 2013, c. 310, §5 (AMD) .]

#### SECTION HISTORY

2011, c. 657, Pt. EE, §5 (NEW). 2013, c. 310, §§2-5 (AMD) .

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State designated health information exchange under the Health Information Technology for Economic and Clinical Health (HITECH), part [ 1997, c. 793, Pt. A, §8 (NEW); 1997, c. 793, Pt. A, §10 (AFF) .] of the American Recovery and Reinvestment Act (ARRA) of 2009

15. Immunity. A cause of action in the nature of defamation, invasion of privacy or negligence does not arise against any person for disclosing health care information in accordance with this section. This section provides no immunity for disclosing information with malice or willful intent to injure any person.

[ 1999, c. 512, Pt. A, §5 (AMD); 1999, c. 512, Pt. A, §7 (AFF); 1999, c. 790, Pt. A, §§58, 60 (AFF) .]

16. Application. This section applies to all requests, directives and authorizations to disclose health care information executed on or after February 1, 2000. An authorization to disclose health care information executed prior to February 1, 2000 that does not meet the standards of this section is deemed to comply with the requirements of this section until the next health care encounter between the individual and the health care practitioner or facility.

[ 1999, c. 512, Pt. A, §5 (AMD); 1999, c. 512, Pt. A, §7 (AFF); 1999, c. 790, Pt. A, §§58, 60 (AFF) .]

From the confidentiality of health care information section 22 §1711-C, sub-518

17. Repeal.

[ 2001, c. 346, §1 (RP) .]

18. Participation in a state-designated statewide health information exchange. The following provisions apply to participation in a state-designated statewide health information exchange.

A. A health care practitioner may not deny a patient health care treatment and a health insurer may not deny a patient a health insurance benefit based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange. Except when otherwise required by federal law, a payor of health care benefits may not require participation in a state-designated statewide health information exchange as a condition of participating in the payor's provider network. [2011, c. 691, Pt. A, §20 (RPR) .]

B. Recovery for professional negligence is not allowed against any health care practitioner or health care facility on the grounds of a health care practitioner's or a health care facility's nonparticipation in a state-designated statewide health information exchange arising out of or in connection with the provision of or failure to provide health care services. In any civil action for professional negligence or in any proceeding related to such a civil action or in any arbitration, proof of a health care practitioner's, a health care facility's or a patient's participation or nonparticipation in a state-designated statewide health information exchange is inadmissible as evidence of liability or nonliability arising out of or in connection with the provision of or failure to provide health care services. This paragraph does not prohibit recovery or the admission of evidence of reliance on information in a state-designated statewide electronic health information exchange when there was participation by both the patient and the patient's health care practitioner. [2011, c. 691, Pt. A, §20 (RPR) .]

C. A state-designated statewide health information exchange to which health care information is disclosed under this section shall provide an individual protection mechanism by which an individual may opt out from participation to prohibit the state-designated statewide health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility. [2011, c. 691, Pt. A, §20 (RPR) .]

D. At point of initial contact, a health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall provide to each patient, on a separate form, at minimum:

- (1) Information about the state-designated statewide health information exchange, including a description of benefits and risks of participation in the state-designated statewide health information exchange;

- (2) A description of how and where to obtain more information about or contact the state-designated statewide health information exchange;
- (3) An opportunity for the patient to decline participation in the state-designated statewide health information exchange; and
- (4) A declaration that a health care practitioner, health care facility or other entity may not deny a patient health care treatment based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange.

The state-designated statewide health information exchange shall develop the form for use under this paragraph, with input from consumers and providers. The form must be approved by the office of the state coordinator for health information technology within the Governor's office of health policy and finance. [2011, c. 691, Pt. A, §20 (RPR).]

E. A health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall communicate to the exchange the decision of each patient who has declined participation and shall do so within a reasonable time frame, but not more than 2 business days following the receipt of a signed form, as described in paragraph D, from the patient, or shall establish a mechanism by which the patient may decline participation in the state-designated statewide health information exchange at no cost to the patient. [2011, c. 691, Pt. A, §20 (RPR).]

F. A state-designated statewide health information exchange shall process the request of a patient who has decided not to participate in the state-designated statewide health information exchange within 2 business days of receiving the patient's decision to decline, unless additional time is needed to verify the identity of the patient. A signed authorization from the patient is required before a patient is newly entered or reentered into the system if the patient chooses to begin participation at a later date.

Except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the state-designated statewide health information exchange is acting as the agent of a health care practitioner, health care facility or other entity, the state-designated statewide health information exchange shall remove health information of individuals who have declined participation in the exchange. In no event may health information retained in the state-designated statewide health information exchange as set forth in this paragraph be made available to health care practitioners, health care facilities or other entities except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the health care practitioner, health care facility or other entity is the originator of the information. [2011, c. 691, Pt. A, §20 (RPR).]

G. A state-designated statewide health information exchange shall establish a secure website accessible to patients. This website must:

- (1) Permit a patient to request a report of who has accessed that patient's records and when the access occurred. This report must be delivered to the patient within 2 business days upon verification of the patient's identity by the state-designated statewide health information exchange;
- (2) Provide a mechanism for a patient to decline participation in the state-designated statewide health information exchange; and
- (3) Provide a mechanism for the patient to consent to participation in the state-designated statewide health information exchange if the patient had previously declined participation. [2011, c. 691, Pt. A, §20 (RPR).]

H. A state-designated statewide health information exchange shall establish for patients an alternate procedure to that provided for in paragraph F that does not require Internet access. A health care practitioner, health care facility or other entity participating in the state-designated statewide health information exchange shall provide information about this alternate procedure to all patients. The information must be included on the form identified in paragraph D. [2011, c. 691, Pt. A, §20 (RPR).]

I. A state-designated statewide health information exchange shall maintain records regarding all disclosures of health care information by and through the state-designated statewide health information



exchange, including the requesting party and the dates and times of the requests and disclosures. [2011, c. 691, Pt. A, §20 (RPR).]

J. A state-designated statewide health information exchange may not charge a patient or an authorized representative of a patient any fee for access or communication as provided in this subsection. [2011, c. 691, Pt. A, §20 (RPR).]

K. Notwithstanding any provision of this subsection to the contrary, a health care practitioner, health care facility or other entity shall provide the form and communication required by paragraphs D and F to all existing patients following the effective date of this subsection. [2011, c. 691, Pt. A, §20 (RPR).]

L. A state-designated statewide health information exchange shall meet or exceed all applicable federal laws and regulations pertaining to privacy, security and breach notification regarding personally identifiable protected health information, as defined in 45 Code of Federal Regulations, Part 160. If a breach occurs, the state-designated statewide health information exchange shall arrange with its participants for notification of each individual whose protected health information has been, or is reasonably believed by the exchange to have been, breached. For purposes of this paragraph, "breach" has the same meaning as in 45 Code of Federal Regulations, Part 164, as amended. [2011, c. 691, Pt. A, §20 (RPR).]

M. The state-designated statewide health information exchange shall develop a quality management plan, including auditing mechanisms, in consultation with the office of the state coordinator for health information technology within the department, who shall review the plan and results. [2011, c. 691, Pt. A, §20 (RPR).]

[ 2011, c. 691, Pt. A, §20 (RPR) .]

**20. Exemption from freedom of access laws.** Except as provided in this section, the names and other identifying information of individuals in a state-designated statewide health information exchange are confidential and are exempt from the provisions of Title 1, chapter 13.

[ 2011, c. 373, §4 (NEW) .]

#### SECTION HISTORY

RR 1997, c. 2, §44 (COR). 1997, c. 793, §A8 (NEW). 1997, c. 793, §A10 (AFF). 1999, c. 3, §§1,2 (AMD). 1999, c. 3, §§3,5 (AFF). 1999, c. 512, §A5 (AMD). 1999, c. 512, §A6, 7 (AFF). 1999, c. 790, §§A58,60 (AFF). RR 2001, c. 1, §26 (COR). 2001, c. 346, §1 (AMD). 2009, c. 211, Pt. B, §17 (AMD). 2009, c. 292, §3 (AMD). 2009, c. 292, §6 (AFF). 2009, c. 387, §§1, 2 (AMD). 2011, c. 347, §§6-8 (AMD). 2011, c. 373, §§1-4 (AMD). 2011, c. 572, §1 (AMD). 2011, c. 691, Pt. A, §20 (AMD). 2013, c. 289, §§1, 2 (AMD). 2013, c. 326, §1 (AMD). 2013, c. 528, §1 (AMD). 2013, c. 528, §12 (AFF). RR 2015, c. 1, §17 (COR). 2015, c. 218, §1 (AMD). 2015, c. 370, §§4, 5 (AMD). 2017, c. 203, §§2-4 (AMD). 2017, c. 402, Pt. C, §44 (AMD). 2017, c. 402, Pt. F, §1 (AFF). 2017, c. 407, Pt. A, §72 (AMD).

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## **Title 22, §5107-A. Long-term care ombudsman program**

In accordance with the program established pursuant to section 5106, subsection 11-C, the ombudsman may enter onto the premises of any residential care facility, as defined in section 7852, subsection 14, licensed according to section 7801, any assisted living facility licensed pursuant to chapter 1663 or 1664 and any nursing facility licensed according to section 1817 to investigate complaints concerning those facilities or to perform any other functions authorized by this section or other applicable law or rules. The ombudsman shall investigate complaints received on behalf of individuals receiving long-term care services provided by home-based care programs, the Medicaid waiver program, licensed home health agencies, assisted living services providers, certified homemaker agencies and licensed adult day care agencies. To carry out this function, any staff member or volunteer authorized by the ombudsman may enter onto the premises of any residential care facility, assisted living facility or nursing facility during the course of an investigation, speak privately with any individual in the facility who consents to the conversation and inspect and copy all records pertaining to a resident as long as the resident or the legal representative of the resident consents in writing to that inspection. The consent, when required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility. When a resident is not competent to grant consent and has no legal representative, the ombudsman may inspect the resident's records and may make copies without the written consent of a duly appointed legal representative. The ombudsman may authorize as many individuals as necessary, in addition to staff, to carry out this function except that these individuals may not make copies of confidential client information. Appropriate identification must be issued to all such persons. In accordance with the federal 1987 Older Americans Act, 42 United States Code, as amended, a person may not serve as an ombudsman without training as to the rights and responsibilities of an ombudsman or without a specific plan of action under direction of the ombudsman. The ombudsman shall renew the authorization and issue identification annually. The findings of the ombudsman must be available to the public upon request.

The ombudsman and volunteers shall visit, talk with and make personal, social and legal services available to residents; inform residents of their rights, entitlements and obligations under federal and state laws by distributing education materials and meeting with groups or individuals; assist residents in asserting their legal rights regarding claims for public assistance, medical care and social security benefits or in actions against agencies responsible for those programs, as well as in all other matters in which residents are aggrieved, including, but not limited to, advising residents to litigate; investigate complaints received from residents or concerned parties regarding care or other matters concerning residents; and participate as observer and resource in any on-site survey or other regulatory review performed by state agencies pursuant to state or federal law.

The ombudsman may provide advocacy during the hospital discharge process to assist patients with complex medical needs who experience significant barriers in accessing long-term services and supports. If the ombudsman provides advocacy, the ombudsman shall ensure that the patient has information regarding available options including, but not limited to: home and community-based services provided under MaineCare or funded by the State; admission to a residential care facility as defined in section 7852, subsection 14 and licensed according to section 7801; admission to a nursing facility licensed according to section 1817; and admission to an assisted living facility or program licensed pursuant to chapter 1663 or 1664. The ombudsman also may provide assistance to the patient after discharge from the hospital.

Information or records maintained by the ombudsman concerning complaints may not be disclosed unless the ombudsman authorizes the disclosure. The ombudsman may not disclose the identity of any complainant or resident unless the complainant, the resident or a legal representative of either consents in writing to the disclosure or a court orders the disclosure.

A complainant, a resident or a legal representative of either, in providing the consent, may specify to whom such identity may be disclosed and for what purposes, in which event no other disclosure is authorized.

Any person, official or institution that in good faith participates in the registering of a complaint pursuant to this section or in good faith investigates that complaint or provides access to those persons carrying out the investigation about an act or practice in any residential care facility licensed according to section 7801, any assisted living facility or program or any nursing facility licensed according to section 1817 or that participates in a judicial proceeding resulting from that complaint is immune from any civil or criminal liability that otherwise might result from these actions. For the purpose of any civil or criminal proceedings, there is a rebuttable presumption that any person acting pursuant to this section did so in good faith.

MAC

MaineCare Advisory Committee

#### §431.11

(1) The agency must not delegate, to other than its own officials, authority to—

(i) Exercise administrative discretion in the administration or supervision of the plan, or

(ii) Issue policies, rules, and regulations on program matters.

(2) The authority of the agency must not be impaired if any of its rules, regulations, or decisions are subject to review, clearance, or similar action by other offices or agencies of the State.

(3) If other State or local agencies or offices perform services for the Medicaid agency, they must not have the authority to change or disapprove any administrative decision of that agency, or otherwise substitute their judgment for that of the Medicaid agency with respect to the application of policies, rules, and regulations issued by the Medicaid agency.

[44 FR 17930, Mar. 23, 1979]

#### §431.11 Organization for administration.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the general organization and staffing requirements for the Medicaid agency and the State plan.

(b) *Medical assistance unit.* A State plan must provide for a medical assistance unit within the Medicaid agency, staffed with a program director and other appropriate personnel who participate in the development, analysis, and evaluation of the Medicaid program.

(c) *Description of organization.* (1) The plan must include—

(i) A description of the organization and functions of the Medicaid agency and an organization chart;

(ii) A description of the organization and functions of the medical assistance unit and an organization chart; and

(iii) A description of the kinds and number of professional medical personnel and supporting staff used in the administration of the plan and their responsibilities.

(d) *Eligibility determined by other agencies.* If eligibility is determined by State agencies other than the Medicaid agency or by local agencies under the supervision of other State agencies, the plan must include a description of the

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staff designated by those other agencies and the functions they perform in carrying out their responsibility.

[44 FR 17931, Mar. 23, 1979]

#### §431.12 Medical care advisory committee.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes State plan requirements for establishment of a committee to advise the Medicaid agency about health and medical care services.

(b) *State plan requirement.* A State plan must provide for a medical care advisory committee meeting the requirements of this section to advise the Medicaid agency director about health and medical care services.

(c) *Appointment of members.* The agency director, or a higher State authority, must appoint members to the advisory committee on a rotating and continuous basis.

(d) *Committee membership.* The committee must include—

(1) Board-certified physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care;

(2) Members of consumers' groups, including Medicaid recipients, and consumer organizations such as labor unions, cooperatives, consumer-sponsored prepaid group practice plans, and others; and

(3) The director of the public welfare department or the public health department, whichever does not head the Medicaid agency.

(e) *Committee participation.* The committee must have opportunity for participation in policy development and program administration, including furthering the participation of recipient members in the agency program.

(f) *Committee staff assistance and financial help.* The agency must provide the committee with—

(1) Staff assistance from the agency and independent technical assistance as needed to enable it to make effective recommendations; and

(2) Financial arrangements, if necessary, to make possible the participation of recipient members.

(g) *Federal financial participation.* FFP is available at 50 percent in expenditures for the committee's activities.

#### § 431.15 Methods of administration.

A State plan must provide for methods of administration that are found by the Secretary to be necessary for the proper and efficient operation of the plan.

(Sec. 1902(a)(4) of the Act)

[44 FR 17931, Mar. 23, 1979]

#### § 431.16 Reports.

A State plan must provide that the Medicaid agency will—

(a) Submit all reports required by the Secretary;

(b) Follow the Secretary's instructions with regard to the form and content of those reports; and

(c) Comply with any provisions that the Secretary finds necessary to verify and assure the correctness of the reports.

[44 FR 17931, Mar. 23, 1979]

#### § 431.17 Maintenance of records.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the kinds of records a Medicaid agency must maintain, the retention period, and the conditions under which microfilm copies may be substituted for original records.

(b) *Content of records.* A State plan must provide that the Medicaid agency will maintain or supervise the maintenance of the records necessary for the proper and efficient operation of the plan. The records must include—

(1) Individual records on each applicant and recipient that contain information on—

(i) Date of application;

(ii) Date of and basis for disposition;

(iii) Facts essential to determination of initial and continuing eligibility;

(iv) Provision of medical assistance;

(v) Basis for discontinuing assistance;

(vi) The disposition of income and eligibility verification information received under §§ 435.940 through 435.960 of this subchapter; and

(2) Statistical, fiscal, and other records necessary for reporting and ac-

countability as required by the Secretary.

(c) *Retention of records.* The plan must provide that the records required under paragraph (b) of this section will be retained for the periods required by the Secretary.

(d) *Conditions for optional use of microfilm copies.* The agency may substitute certified microfilm copies for the originals of substantiating documents required for Federal audit and review, if the conditions in paragraphs (d)(1) through (4) of this section are met.

(1) The agency must make a study of its record storage and must show that the use of microfilm is efficient and economical.

(2) The microfilm system must not hinder the agency's supervision and control of the Medicaid program.

(3) The microfilm system must—

(i) Enable the State to audit the propriety of expenditures for which FFP is claimed; and

(ii) Enable the HHS Audit Agency and CMS to properly discharge their respective responsibilities for reviewing the manner in which the Medicaid program is being administered.

(4) The agency must obtain approval from the CMS regional office indicating—

(i) The system meets the conditions of paragraphs (d)(2) and (3) of this section; and

(ii) The microfilming procedures are reliable and are supported by an adequate retrieval system.

[44 FR 17931, Mar. 23, 1979, as amended at 51 FR 7210, Feb. 28, 1986]

#### § 431.18 Availability of agency program manuals.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes State plan requirements for facilitating access to Medicaid rules and policies by individuals outside the State Medicaid agency.

(b) *State plan requirements.* A State plan must provide that the Medicaid agency meets the requirements of paragraphs (c) through (g) of this section.

(c) *Availability in agency offices.* (1) The agency must maintain, in all its offices, copies of its current rules and

## TITLE 22, CHAPTER 1058

### MAINE CHILDREN'S TRUST INCORPORATED

#### §3881. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Board.** "Board" means the Board of the Maine Children's Trust Incorporated.
2. **Eligible organization.** "Eligible organization" means a nonprofit organization, local government or public school system.
3. **Fund.** "Fund" means the repository for funds donated to the Maine Children's Trust Incorporated by the taxpayers of the State through an income tax checkoff pursuant to Title 36, section 5285 as well as federal grants and contracts, privately donated funds and in-kind donations for prevention programs, or by any means for the purposes of this chapter.
4. **Income.** "Income" means annual contributions made to the fund through the income tax checkoff.
5. **Prevention policies.** "Prevention policies" means laws, rules, policies, procedures and practices, whether in the public or private sector, that have an actual or potential impact on the nature and incidence of child abuse and neglect.
6. **Prevention programs.** "Prevention programs" means programs, plans or training associated with the primary prevention of child abuse and neglect and the promotion of high-quality child care.
7. **Trust.** "Trust" means the Maine Children's Trust Incorporated.

#### §3882. Establishment; purpose; nonprofit organization

The Maine Children's Trust Incorporated, referred to in this chapter as the "trust," is established to provide a mechanism for voluntary contributions by individuals and groups for annual and long-term funding of prevention programs.

The trust is a private nonprofit corporation with a broad public purpose pursuant to this chapter. The exercise by the trust of the powers conferred by this chapter is held to be an essential governmental function.

#### §3883. Board; establishment

1. **Establishment.** The Board of the Maine Children's Trust Incorporated, referred to in this chapter as the "board," is established.
2. **Membership.** The board consists of at least 17 members, appointed as follows:
  - A. One Senator, appointed by the President of the Senate for a 2-year term served concurrently with the legislative term;
  - B. One Representative, appointed by the Speaker of the House of Representatives for a 2-year term served concurrently with the legislative term;
  - C. Four members of the Maine Child Abuse Prevention Councils, selected by that organization. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and 2 are appointed for 3-year terms. After the initial appointments, appointees are appointed for 3-year terms;
  - D. Two representatives of the Department of Health and Human Services appointed by the Commissioner of Health and Human Services. One member must be a senior policy-making official and the other must be a line manager with several years of experience in child abuse and neglect. Of the initial appointees, one is appointed for a 2-year term and the other is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms; and
  - E. Nine members of the public and the business community.
    - (1) Three members must be appointed by the Governor. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and one is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms.
    - (2) Three leaders from the business community must be appointed by the Maine Chamber of Commerce and Industry. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and one is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year

terms.

(3) At least 3 members must be elected by majority vote of the board. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and one is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms.

The public members may include representatives of the following groups: parents; persons under the age of 21; the business and labor communities; the legal community; the religious community; and providers of child abuse and neglect prevention services.

**3. Board officers.** The board shall elect annually a chair from among its members to serve for one year. The chair may be reelected. The board shall elect annually a member to serve as a secretary, who shall maintain the minutes of board meetings, and another member to serve as treasurer, who shall maintain and oversee financial records and issue an annual financial report at the end of each fiscal year. The secretary and treasurer may be reelected. The board may elect from among its members other officers it determines necessary to carry out the board's purposes.

**4. Compensation.** The members are ineligible for per diem compensation, but may be reimbursed for travel expenses and other out-of-pocket expenses associated with board business pursuant to board policy.

**5. Meetings.** The board shall meet at least 4 times annually. A simple majority constitutes a quorum.

**6. Advice and consultation.** The Commissioner of Health and Human Services, the Commissioner of Education, the Commissioner of Corrections and the Commissioner of Public Safety, upon request, shall provide the board with technical information, assistance and advice.

#### **§3884. Powers**

(REPEALED)

#### **§3884-A. Duties of board; powers of board**

**1. Duties.** The board shall:

A. Develop a biennial working plan for trust activities that sets overall statewide goals and objectives for child abuse prevention activities, establishes priorities for distribution of money in the fund and provides a working plan for the trust for the biennium. In developing the plan, the board may:

- (1) Review and evaluate existing prevention programs, including high-quality child care options;
- (2) Ensure that equal opportunity exists for the establishment of prevention programs and receipt of money from the fund among all geographic areas in the State; and
- (3) Review and evaluate public and private funding sources;

B. Develop, initiate, propose or recommend ideas for innovations in rules, laws, policies and programs concerning child abuse and neglect to the Governor, the Legislature, state executive agencies, the business community and other entities. The board may also assist in the coordination and exchange of information and the maintenance of prevention programs;

C. Publicize criteria and review applications for grants and award those grants to recipients that best address the purposes of this chapter and submit to the Legislature the list of both successful and unsuccessful applicants who have allowed their names to be placed on the list along with reasons for and against the application;

D. Establish a process for monitoring and review of grants awarded pursuant to this chapter;

E. As a primary prevention activity of the trust, develop and implement a campaign to provide statewide education and public information to enhance public awareness concerning child abuse and neglect;

F. Enter into contracts with public or private agencies and accept gifts or grants from federal, state or private sources to carry out this chapter;

G. Employ staff as the board determines necessary to implement its responsibilities;

H. Cooperate with and avail itself of the services of governmental agencies and the University of Maine System and cooperate with, assist and otherwise encourage local or regional, private or public organizations in the various communities of the State in the prevention of abuse and neglect among children in the community and the State; and

I. Develop plans, with the cooperation of the child abuse and neglect prevention councils established under chapter 1057, to provide a stable base for funding the councils in amounts no lower than the amounts provided in the biennial budget of fiscal years 1999-00 and 2000-01.



**2. Powers.** The board may:

- A. Apply for and receive funds from any private source or governmental entity, whether by way of grant, donation, loan or other means;
- B. Create partnerships between the public and private sectors to facilitate the purposes of this chapter and to:
  - (1) Bridge the gap in knowledge and communication between the public and private sectors regarding prevention programs and prevention policies;
  - (2) Build the leadership capacity of public and private sector individuals and institutions regarding prevention programs, prevention policies and the importance of high-quality child care in all children's early years; and
  - (3) Encourage active financial and in-kind participation from the public and private sectors in carrying out the purposes of this chapter;
- C. Adopt bylaws, have the general powers accorded corporations under Title 13, chapter 81 and perform other acts necessary or convenient to carry out the lawful purposes of the trust;
- D. Sue or be sued in the board's own name;
- E. Purchase, receive, hold, lease or acquire by foreclosure, operate, manage, license and sell, convey, transfer, grant or lease real and personal property, together with those rights and privileges that may be incidental and appurtenant to the property and the use of the property, including, but not limited to, real or personal property acquired by the board from time to time in the satisfaction of debts or enforcement of obligations;
- F. Make expenditures and incur obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property interests acquired by the board;
- G. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of a person, firm, corporation, joint stock company, partnership, association or trust, and, while the owner or holder of stock, shares, bonds, debentures, notes or other securities, exercise the rights, powers and privileges of ownership, including the right to vote on the stock, shares, bonds, debentures, notes or other securities;
- H. Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in paragraph E, F or G as security for the payment of any part of the purchase price of the property right or thing of value; and
- I. Expend principal from the endowment fund established in section 3885, subsection 5 only under emergency circumstances by 2/3 vote of the board.

**§3885. Funds**

**1. Control.** The board may accept funds from a public or private source. Revenue to the fund must be managed, deposited, invested and disbursed by the board in a manner that is independent of control by the Department of Administrative and Financial Services.

**2. Grants disbursement.** The board shall establish a procedure and form for applications for grants of fund resources under this chapter. Upon board approval of an application, the board may disburse money from the fund to eligible recipients for the development, operation or awareness of prevention programs and prevention policies under this chapter.

**3. Administrative expenses.** Income must be allocated for the support of administrative expenses as follows.

A. The board may expend, for administrative expenses, no more than 45% in calendar year 1994, 40% in calendar year 1995, 35% in calendar year 1996, 30% in calendar year 1997 and 25% in calendar year 1998 of annual revenues from the state income tax checkoff contributed by individuals. After 1998, the board may expend, for administrative expenses, no more than 20% of annual revenues from the state income tax checkoff contributed by individuals.

B.

**4. Discretion.** The board has sole discretion in the use of resources from sources other than the income tax checkoff by individuals.

**5. Endowment fund.** An endowment fund is established pursuant to this subsection. A minimum of 10% of tax checkoff revenue received each year from individuals must be set aside for allocation to the segregated endowment

fund. Up to 90% of the checkoff revenue and other income received by the endowment fund may be expended annually by the board in accordance with this chapter.

**6. Income greater than \$200,000.** At least 1/3 of the total annual revenue that exceeds \$200,000 must be allocated to the endowment fund established under subsection 5.

#### **§3886. Limitation of powers**

The board, notwithstanding section 3884-A, subsection 1, paragraph F, may not enter into contracts, obligations or commitments of any kind on behalf of the State or its agencies, nor does it have the power of eminent domain or other powers not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the board are not debts or liabilities of the State and do not constitute a pledge of the faith and credit of the State.

#### **§3887. Liability of officers, directors and employees**

Officers, directors, employees and other agents of the board entrusted with the custody of the securities of the fund or authorized to disburse the money of the fund must be bonded, either by a blanket bond or individual bonds, with a surety bond or bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond, conditioned upon the faithful performance of their duties, the premiums for which must be paid out of the assets of the fund.

#### **§3888. Prohibited interests of officers, directors and employees**

An officer, director or employee of the trust or a spouse or dependent child of an officer, director or employee of the trust may not receive direct personal benefit from the activities of the trust in assisting a private entity. This provision does not prohibit corporations or other entities with which an officer, director or employee is associated by reason of ownership or employment from participating in prevention programs of the trust, if that ownership or employment is made known to the board and the officer, director or employee abstains from voting on matters relating to that participation. This prohibition does not extend to corporators who are not officers, directors or employees of the trust.

#### **§3889. Donations to the State**

The State, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the trust and shall transfer those funds, that property or other interests to the fund.

#### **§3890. Annual report; audit**

By February 15th, the board shall provide an annual report and an annual independent audit of its activities to the Governor, the joint standing committee of the Legislature having jurisdiction over human resources matters and the public. The annual report must provide a summary of the fund for the previous fiscal year according to generally accepted accounting principles.

#### **§3890-A. General conditions; dissolution**

The following conditions apply to the operation or dissolution of the fund.

**1. Net earnings of the fund.** A member, officer, director or employee may not benefit from any part of the net earnings of the fund. Net earnings of the fund may be used to pay reasonable compensation for services rendered and to hold, manage and dispose of its property in furtherance of the purposes of the fund.

**2. Dissolution of fund.** Upon dissolution of the fund, the members shall transfer any unexpended General Fund appropriations to the State and pay or make provisions for the payment of all other liabilities of the fund.

All other principal and accrued interest in the fund must be transferred to the Maine Child Abuse Prevention Councils and restricted to the support of primary prevention of child abuse and neglect in the State.

#### **§3890-B. Liberal construction**

This chapter must be construed liberally to effect the interests and purposes of the fund for the prevention of child abuse and neglect in the State and must be broadly interpreted to effect the intent and purposes and may not be interpreted as a limitation of powers.

**Maine Revised Statutes**  
**Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES**  
**Chapter 17: DEVELOPMENTAL DISABILITIES**

**§17001. MAINE DEVELOPMENTAL DISABILITIES COUNCIL**

**1. Establishment.** The Maine Developmental Disabilities Council, referred to in this section as "the council," is established as authorized by Title 5, section 12004-I, subsection 66 and in accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402.

[ 2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF) .]

**2. Status.** The council is a public instrumentality of the State, and the exercise of the power conferred by this section is the performance of essential governmental functions. The council may not be considered a state agency for any purposes, including, but not limited to, budgeting, accounts and control, auditing and purchasing.

[ 2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF) .]

**3. Appointments.** The Governor shall appoint appropriate representatives to the council, as required under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, upon consideration of recommendations made by current members of the council.

[ 2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF) .]

**4. Duties.** The council shall perform its duties in compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

[ 2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF) .]

**5. Designated state agency.** Notwithstanding subsection 2, the Department of Administrative and Financial Services is the designated state agency for the purposes of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402. As the designated state agency, the department shall meet all requirements specified in 42 United States Code, Section 15025 but may assume no liabilities other than those set forth in 42 United States Code, Section 15025 in connection with the receipt of federal funds for the purpose of disbursement to the council.

[ 2005, c. 519, Pt. BB, §1 (AMD) .]

**6. Council personnel and members.** As of the effective date of this section:

A. All employees assigned to the council who state that they wish to continue as employees of the council must be transferred from state employment to employment of the council in its capacity as an independent advisory agency; [2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF) .]

B. Accrued fringe benefits from state employment of transferred personnel, including, but not limited to, vacation and sick leave, health and life insurance and retirement credits, remain available to the transferred personnel; [2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF) .]

C. Members and employees of the council are not considered state employees for the purpose of the state civil service provisions of Title 5, Part 2 and chapter 372 or for any other purpose except as follows.

(1) Employees of the council, including employees hired after the effective date of this section, are deemed state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2.

(2) For purposes of the Maine Tort Claims Act, the council is deemed a governmental entity and its employees and members are deemed employees as those terms are defined in Title 14, section 8102; and [2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF).]

D. An employee of the council may return to state employment at any time up to 2 years from the effective date of this section. Employees expressing such a preference must be placed on the appropriate registers maintained by the Department of Administrative and Financial Services, Bureau of Human Resources and must be treated as though on recall in accordance with current collective bargaining provisions. [2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF).]

[ 2003, c. 417, §3 (NEW); 2003, c. 417, §4 (AFF) .]

**7. Council report.** The council, pursuant to its duties under subsection 4, shall provide information from the comprehensive review and analysis of services, supports and other assistance for persons with disabilities required by 42 United States Code, Chapter 144, Section 15024 (c) (3) to the Legislature by January 31st of each year.

[ 2007, c. 152, §2 (NEW) .]

#### SECTION HISTORY

2003, c. 417, §3 (NEW). 2003, c. 417, §4 (AFF). 2005, c. 137, §1 (AMD).  
2005, c. 519, §BB1 (AMD). 2007, c. 152, §2 (AMD).

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**Maine Revised Statutes**  
**Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES**  
**Chapter 1: GENERAL PROVISIONS**

**§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. [2007, c. 356, §7 (NEW); 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. [2007, c. 356, §7 (NEW); 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." [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.

[ 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.

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

**3. Chair.** The board shall elect a chair from among its members.

[ 2007, c. 356, §7 (NEW); 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.

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

**5. Staff.** The board may hire an executive director and clerical support staff.

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

**6. Budget.** The board shall provide to the commissioner a proposed budget in accordance with a schedule agreed to by the chair and the commissioner. The department 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.

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

**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.

[ 2007, c. 356, §7 (NEW); 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 [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. [2011, c. 542, Pt. A, §66 (AMD) .]

[ 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. [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. [2007, c. 356, §7 (NEW); 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. [2007, c. 356, §7 (NEW); 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. [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. [2007, c. 356, §7 (NEW); 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. [2011, c. 657, Pt. EE, §2 (AMD).]

[ 2011, c. 542, Pt. A, §67 (AMD); 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. 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. [2011, c. 542, Pt. A, §68 (AMD).]

B. 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. [2013, c. 310, §1 (AMD).]

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

E. 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 for which access to such information is necessary to perform the function of the committee. [2007, c. 356, §7 (NEW); 2007, c. 695, Pt. D, §3 (AFF).]

[ 2011, c. 657, Pt. EE, §3 (AMD); 2013, c. 310, §1 (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; [2007, c. 356, §7 (NEW); 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; [2007, c. 356, §7 (NEW); 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; [2007, c. 356, §7 (NEW); 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 [2007, c. 356, §7 (NEW); 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. [2007, c. 356, §7 (NEW); 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.

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

#### SECTION HISTORY

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

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**Maine Revised Statutes**  
**Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES**  
**Chapter 501: MEDICAL CONDITIONS**

**§19202. MAINE HIV ADVISORY COMMITTEE**

**1. Duties.**

[ 1999, c. 390, §10 (AFF); 1999, c. 390, §1 (RP) .]

**1-A. Duties.**

[ 2009, c. 203, §8 (AFF); 2009, c. 203, §1 (RP) .]

**1-B. Duties.** The Maine HIV Advisory Committee, as established in section 12004-I, subsection 42 and referred to in this section as "the committee," on behalf of those individuals infected by, at risk for or affected by the human immunodeficiency virus, referred to in this section as "HIV," in the State, shall:

A. Advise the Office of the Governor and state, federal and private sector agencies, officials and committees on HIV-related and AIDS-related policy, planning, budget or rules; [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF).]

B. Make an annual assessment of emerging HIV-related issues and trends; [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF).]

C. Initiate and respond to legislation, both state and federal; and [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF).]

D. Prepare and present, in person, an annual report on the status of HIV in the State to the Office of the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters by March 1st of each year. [2013, c. 108, §1 (AMD) .]

[ 2013, c. 108, §1 (AMD) .]

**2. Membership.**

[ 1999, c. 390, §10 (AFF); 1999, c. 390, §3 (RP) .]

**2-A. Membership.**

[ 2009, c. 203, §8 (AFF); 2009, c. 203, §3 (RP) .]

**2-B. Membership.** The committee consists of 19 members as provided in this subsection.

A. The committee includes 7 members as follows, of whom only the Legislators are voting members:

- (1) Two members of the Legislature, one Senator nominated by the President of the Senate and one Representative nominated by the Speaker of the House of Representatives;
- (2) The director of the HIV, STD and viral hepatitis program within the Department of Health and Human Services, Maine Center for Disease Control and Prevention;
- (3) A representative of the Department of Education, nominated by the Commissioner of Education;
- (4) A representative of the Department of Corrections, nominated by the Commissioner of Corrections;

(5) A representative of the organizational unit of the Department of Health and Human Services that provides programs and services for substance use disorder prevention and treatment, nominated by the Commissioner of Health and Human Services; and

(6) A representative of the Department of Health and Human Services, Office of MaineCare Services, nominated by the Commissioner of Health and Human Services. [2017, c. 407, Pt. A, §9 (AMD).]

B. The committee shall identify 12 additional voting representatives for membership as described in this paragraph, with broad input from persons with HIV or at risk for HIV infection or from organizations with extensive participation of persons with HIV, organizations interested in and working on HIV and AIDS prevention and health, other community-based organizations providing HIV and AIDS services, rural health centers and the public:

- (1) Four persons living with HIV/AIDS;
- (2) Two representatives of populations most affected by HIV/AIDS in the State;
- (3) Two providers of HIV-related prevention or social services;
- (4) Two representatives of the public health community who have experience in the prevention of and the care and treatment of persons with HIV or infectious diseases; and
- (5) Two persons chosen by the committee because of the positive impact the persons' expertise or experience will have on the work of the committee. [2013, c. 108, §2 (RPR).]

[ 2017, c. 407, Pt. A, §9 (AMD) .]

**3. Terms.** The term of office of each voting member is 3 years except that nonvoting members serve during the duration of the commissioner's term of office for the agency that each member represents and Legislators serve during the term for which they were elected. The membership shall annually elect a chair and vice-chair. The chair is the presiding member of the committee. All vacancies must be filled for the balance of the unexpired term in the same manner as original appointments.

[ 2009, c. 203, §5 (AMD); 2009, c. 203, §8 (AFF) .]

**3-A. Compensation.** The members of the committee are entitled to compensation in accordance with chapter 379. All members are entitled to reimbursement for expenses.

[ 1999, c. 390, §6 (NEW); 1999, c. 390, §10 (AFF) .]

**4. Meetings.** The committee shall meet at least 4 times a year and more frequently if needed to respond to the duties of this committee as specified in subsection 1-B. Special meetings may be called by the chair and must be called at the request of the Department of Health and Human Services, Maine Center for Disease Control and Prevention or by 3 or more members of the committee.

[ 2009, c. 203, §6 (AMD); 2009, c. 203, §8 (AFF) .]

#### **5. Annual program and budget review.**

[ 1999, c. 390, §10 (AFF); 1999, c. 390, §8 (RP) .]

**6. Committee may accept funds.** The committee may vote to accept or refuse gifts, grants or other funding that may be offered to the committee.

[ 1993, c. 384, §2 (NEW) .]

#### **SECTION HISTORY**

1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR).  
1987, c. 651, (AMD). 1987, c. 769, §A33 (AMD). 1987, c. 861, §§7,8

**Maine Revised Statutes**  
**Title 22: HEALTH AND WELFARE**  
**Chapter 1680: MAINE HOSPICE COUNCIL**

**§8611. MAINE HOSPICE COUNCIL ESTABLISHED**

The Maine Hospice Council is established to coordinate a statewide hospice program of training, education and advocacy as a body politic and a public instrumentality of the State. For the purposes of this chapter, "council" means the Maine Hospice Council. [1989, c. 596, Pt. F, §2 (NEW).]

SECTION HISTORY

1989, c. 596, §F2 (NEW).

**§8612. RULE-MAKING AUTHORITY**

The council has the authority to adopt rules as necessary in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to carry out its responsibilities. [1989, c. 596, Pt. F, §2 (NEW).]

SECTION HISTORY

1989, c. 596, §F2 (NEW).

**§8613. MEETINGS**

The council shall meet at least once a year. Special meetings shall be held as deemed necessary by the council. The minutes of all proceedings of the council shall be a public record available and on file in the office of the council. Members of the council shall be compensated according to the provisions of Title 5, chapter 379. [1989, c. 596, Pt. F, §2 (NEW).]

SECTION HISTORY

1989, c. 596, §F2 (NEW).

**§8614. COUNCIL BUDGET; FINANCING; EXECUTIVE DIRECTOR**

The council shall prepare and adopt a biennial budget for presentation to the Governor and the Legislature as a request for appropriations sufficient to carry out its statutory responsibilities. The council may accept contributions of any type from any source to assist it in carrying out its responsibilities and to make arrangements regarding the administration of these funds as may be required as a condition precedent to the receipt of these funds by the Federal Government or any other source. [1991, c. 145, (AMD).]

The council may employ an executive director who shall be the principal administrative and executive employee of the council. The executive director may hire staff as necessary to carry out the responsibilities for the coordination of all affairs of the council including, but not limited to, the training and education of volunteers, health care professionals and the general public. The executive director is also responsible for advocacy on behalf of community hospices throughout the State. The executive director may obtain office space, goods and services as required to carry out these responsibilities. [1989, c. 596, Pt. F, §2 (NEW).]

SECTION HISTORY

1989, c. 596, §F2 (NEW). 1991, c. 145, (AMD).

## §8615. PALLIATIVE CARE INITIATIVES

To the extent allowed by available resources, the council shall establish a palliative care consumer and professional information and education program to maximize the effectiveness of palliative care initiatives by ensuring that comprehensive and accurate information and education are available to the public, health care providers and health care facilities. The council shall publish and maintain on a publicly accessible website information and resources related to palliative care, including, but not limited to, links to external resources, continuing professional education opportunities, delivery of palliative care in the home and in primary, secondary and tertiary care environments, best practices for palliative care delivery and consumer educational materials and referral information for palliative care, including hospice care. The council may develop and implement other initiatives regarding palliative care services and education as it determines to be appropriate. The council may seek and accept funding to cover the costs of the Palliative Care and Quality of Life Interdisciplinary Advisory Council under section 1726. In performing its work under this section, the council shall consult with the Palliative Care and Quality of Life Interdisciplinary Advisory Council. [2015, c. 203, §3 (NEW).]

### SECTION HISTORY

2015, c. 203, §3 (NEW).

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**Maine Revised Statutes**  
**Title 22: HEALTH AND WELFARE**  
**Chapter 401: GENERAL PROVISIONS**

**§1726. PALLIATIVE CARE AND QUALITY OF LIFE INTERDISCIPLINARY  
ADVISORY COUNCIL**

The Palliative Care and Quality of Life Interdisciplinary Advisory Council, as established in Title 5, section 12004-I, subsection 47-I and referred to in this section as "the advisory council," is established to improve the quality and delivery of patient-centered and family-focused care in accordance with this section. [2015, c. 203, §2 (NEW).]

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

A. "Palliative care" means patient-centered and family-focused medical care that optimizes quality of life by anticipating, preventing and treating suffering caused by a medical illness or a physical injury or condition that substantially affects a patient's quality of life, including, but not limited to, addressing physical, emotional, social and spiritual needs; facilitating patient autonomy and choice of care; providing access to information; discussing the patient's goals for treatment and treatment options, including, when appropriate, hospice care; and managing pain and symptoms comprehensively. Palliative care does not always include a requirement for hospice care or attention to spiritual needs. [2017, c. 213, §1 (AMD).]

B. "Serious illness" means a medical illness or physical injury or condition that substantially affects quality of life for more than a short period of time. "Serious illness" includes, but is not limited to, Alzheimer's disease and related dementias, lung disease, cancer, heart, renal or liver failure and chronic, unremitting or intractable pain such as neuropathic pain. [2017, c. 213, §1 (AMD).]

[ 2017, c. 213, §1 (AMD) .]

**2. Membership.** The advisory council consists of the following members:

A. Five persons with experience and expertise in palliative care in acute hospital care, long-term care, in-home care and hospice care with respect to pediatric, youth, adult and elderly populations as follows:

(1) Two persons appointed by the Governor. One person must be a physician who is certified by a national board of hospice and palliative medicine. One person must be a registered nurse or advanced practice registered nurse who is certified by a national board for certification of hospice and palliative nurses; and

(2) Three persons appointed by the executive director of the Maine Hospice Council, established in section 8611, who are health professionals with palliative care work experience or expertise in the delivery of palliative care; [2015, c. 203, §2 (NEW).]

B. Two persons appointed by the President of the Senate. One person must be a licensed pharmacist with experience working with persons with serious illnesses. One person must represent hospitals in the State; [2015, c. 203, §2 (NEW).]

C. Two persons appointed by the Speaker of the House of Representatives. One person must be a licensed social worker with experience working with persons with serious illnesses and their family members. One person must represent health insurers; [2015, c. 203, §2 (NEW).]

D. Two persons appointed by the member of the Senate who is the leader of the minority party in the Senate. Both persons must represent statewide organizations that advocate on behalf of persons with serious illnesses; [2015, c. 203, §2 (NEW).]

E. Two persons appointed by the member of the House of Representatives who is the leader of the minority party in the House. One person must be a spiritual counselor with experience working with persons with serious illnesses and their family members. One person must represent persons 55 years of age and older; and [2015, c. 203, §2 (NEW) .]

F. The executive director of the Maine Hospice Council, established in section 8611, who serves as a nonvoting member. [2015, c. 203, §2 (NEW) .]

[ 2015, c. 203, §2 (NEW) .]

**3. Terms; vacancies; expense reimbursement.** A person appointed to the advisory council serves a 3-year term, subject to termination by decision of the appointing authority. When a vacancy occurs, the appointing authority shall appoint a new member to serve for 3 years. As provided in Title 5, section 12004-I, subsection 47-I, members serve on a voluntary basis, are not eligible for payment for their service and may be reimbursed for necessary expenses.

[ 2015, c. 203, §2 (NEW) .]

**4. Conduct of business.** At the first meeting of the advisory council and annually thereafter, the members shall elect from the membership a chair and a vice-chair and shall determine their duties. The chair and vice-chair shall call at least 2 meetings per year and other meetings as requested by a majority of the membership or as determined by the chair and vice-chair. A majority of the membership constitutes a quorum. All meetings of the advisory council are public proceedings, are open to the public and must be held in locations that are convenient for public access and that are provided by the Maine Hospice Council, established in section 8611. As appropriate to the agenda for the meeting and in conformance with the Maine Administrative Procedure Act, all meetings must provide an opportunity for public comment.

[ 2015, c. 203, §2 (NEW) .]

**5. Duties.** The advisory council shall:

A. Consult with and advise the Maine Center for Disease Control and Prevention on matters related to the establishment, maintenance, operation and evaluation of palliative care initiatives in the State; [2015, c. 203, §2 (NEW) .]

B. Analyze palliative care being provided in the State; [2015, c. 203, §2 (NEW) .]

C. Make recommendations to improve palliative care and the quality of life of persons with serious illnesses; and [2015, c. 203, §2 (NEW) .]

D. Submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, health and human services matters and insurance and financial services matters by January 1st each year providing the findings and recommendations of the advisory council. [2015, c. 203, §2 (NEW) .]

[ 2015, c. 203, §2 (NEW) .]

**6. Funding.** The advisory council may accept funding that is not public funding.

*(As enacted by PL 2015, c. 218, §2 is REALLOCATED TO TITLE 22, SECTION 1727)*

[ 2015, c. 203, §2 (NEW) .]

#### SECTION HISTORY

RR 2015, c. 1, §18 (RAL). 2015, c. 203, §2 (NEW). 2015, c. 218, §2 (NEW). 2017, c. 213, §1 (AMD).

**Title 22, §412, sub-§6**

**6. Statewide Coordinating Council for Public Health.** The Statewide Coordinating Council for Public Health, established under Title 5, section 12004-G, subsection 14-G, is a representative statewide body of public health stakeholders for collaborative public health planning and coordination.

A. The Statewide Coordinating Council for Public Health shall:

- (1) Participate as appropriate to help ensure the state public health system is ready and maintained for accreditation;
- (4) Assist the Maine Center for Disease Control and Prevention in planning for the essential public health services and resources to be provided in each district and across the State in the most efficient, effective and evidence-based manner possible;
- (5) Receive reports from the tribal district coordinating council for public health regarding readiness for tribal public health systems for accreditation if offered; and
- (6) Participate as appropriate and as resources permit to help support tribal public health systems to prepare for and maintain accreditation if assistance is requested from any tribe.

The Maine Center for Disease Control and Prevention shall provide staff support to the Statewide Coordinating Council for Public Health as resources permit. Other agencies of State Government as necessary and appropriate shall provide additional staff support or assistance to the Statewide Coordinating Council for Public Health as resources permit.

B. Members of the Statewide Coordinating Council for Public Health are appointed as follows.

- (1) Each district coordinating council for public health, including the tribal district coordinating council, shall appoint one member.
- (2) The Director of the Maine Center for Disease Control and Prevention or the director's designee shall serve as a member.
- (3) The commissioner shall appoint an expert in behavioral health from the department to serve as a member.
- (4) The Commissioner of Education shall appoint a health expert from the Department of Education to serve as a member.
- (5) The Commissioner of Environmental Protection shall appoint an environmental health expert from the Department of Environmental Protection to serve as a member.
- (6) The Director of the Maine Center for Disease Control and Prevention, in collaboration with the co-chairs of the Statewide Coordinating Council for Public Health, shall convene a membership committee. After evaluation of the appointments to the Statewide Coordinating Council for Public Health, the membership committee shall appoint no more than 10 additional members and ensure that the total membership has at least one member who is a recognized content expert in each of the essential public health services and has representation from populations in the State facing health disparities. The membership committee shall also strive to ensure diverse representation on the Statewide Coordinating Council for Public Health from county governments, municipal governments, tribal governments, tribal health departments or health clinics, city health departments, local health officers, hospitals, health systems, emergency management agencies, emergency medical services, Healthy Maine Partnerships, school districts, institutions of higher education, physicians and other health care providers, clinics and community health centers, voluntary health organizations, family planning organizations, area agencies on aging, mental health

services, substance use disorder services, organizations seeking to improve environmental health and other community-based organizations.

C. The term of office of each member is 3 years. All vacancies must be filled for the balance of the unexpired term in the same manner as the original appointment.

D. Members of the Statewide Coordinating Council for Public Health shall elect annually a chair and cochair. The chair is the presiding member of the Statewide Coordinating Council for Public Health.

E. The Statewide Coordinating Council for Public Health shall meet at least quarterly, must be staffed by the department as resources permit and shall develop a governance structure, including determining criteria for what constitutes a member in good standing.

F. The Statewide Coordinating Council for Public Health shall report annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Governor's office on progress made toward achieving and maintaining accreditation of the state public health system and on districtwide and statewide streamlining and other strategies leading to improved efficiencies and effectiveness in the delivery of essential public health services.



## TITLE 30-A, CHAPTER 202

### AFFORDABLE HOUSING PARTNERSHIP

#### §5001. Title

This chapter shall be known and may be cited as the "Affordable Housing Partnership Act of 1989."

#### SUBCHAPTER 5-A

#### STATEWIDE HOMELESS COUNCIL

#### §5046. Statewide Homeless Council created

The Statewide Homeless Council, established in accordance with Title 5, chapter 379, shall serve as an advisory committee with respect to the administration and implementation of this chapter to the state authority, the Governor and the Legislature.

#### §5047. Membership; appointment; terms of office; chair

**1. Membership; chair.** The council consists of 14 members appointed as follows:

- A. Six members appointed by the Governor, 2 from each of 3 regional homeless councils, based on nominations provided by the 3 regional homeless councils;
- B. The Director of the Maine State Housing Authority or the director's designee;
- C. Three members appointed jointly by the President of the Senate and the Speaker of the House, one from each of 3 regional homeless councils, based on nominations provided by the 3 regional homeless councils;
- D. One member representing the Office of the Governor, who serves as the chair;
- E. The Commissioner of Health and Human Services or the commissioner's designee;
- F. The Commissioner of Corrections or the commissioner's designee; and
- G. The Director of the Bureau of Maine Veterans' Services or the director's designee.

**2. Term of office.** Members of the council appointed jointly by the President of the Senate and the Speaker of the House serve 3-year terms and serve at the pleasure of the President of the Senate and the Speaker of the House. Members of the council appointed by the Governor serve 2-year terms and serve at the pleasure of the Governor.

- A. Members serve until their successors are appointed and qualified.
- B. The appointing authorities shall fill a vacancy for the balance of an unexpired term in the same manner as the appointment was originally filled, except as otherwise provided.

**3. Staff.** The state authority shall provide staff support to the council.

#### §5048. Duties

The council shall advise the state authority with respect to the implementation of this chapter and the development of affordable housing. The council shall:

- 1. Provide leadership.** Provide leadership in efforts to end homelessness and provide support to the regional homeless councils by ensuring access to senior-level government officials and the Office of the Governor;
- 2. Educate.** Develop and coordinate an education campaign regarding homelessness;

**3. Serve as coordinator of information.** Serve as a coordinator of information and communication among state agencies and among the state, municipal and private sectors with respect to this chapter. In carrying out this duty, the council shall:

- A. Review proposed legislative changes, system changes and resource recommendations from the regional homeless councils and compile the regional reports into a single statewide report; and
- B. Serve as a liaison with the federal Interagency Council on Homeless and recommend any necessary changes;

**4. Assess statewide needs.** With assistance from regional homeless councils, develop estimates of statewide resource needs;

**5. Identify potential resources.** Identify new funding opportunities through private and public sources and assist in disseminating this information to regional homeless councils along with available grant opportunities;

**6. Assistance to homeless.** In cooperation with the state authority, identify the resources available to and ways to increase access to services to the homeless and persons with special needs, identify the gaps in delivery services to this population and make recommendations concerning the policies and programs serving this population;

**7. Review, monitor and implement plans.** On an annual basis, review and comment on plans submitted pursuant to Title 34-B, section 1221 and propose amendments and updates to and implement a plan to end homelessness;

**8. Advise departments.** Advise the Department of Corrections and the Department of Health and Human Services on issues related to homelessness and other issues related to the duties of the council; and

**9. Develop strategic plan regarding homelessness among veterans.** Develop strategies to enhance coordination and communication among agencies and organizations that provide services that seek to place veterans in permanent housing and that seek to improve access to services known to support housing stability for veterans who are experiencing homelessness or veterans who are at risk of homelessness. The council shall develop and periodically review a strategic plan that:

- A. Establishes a baseline for homelessness in the State from which improvements can be measured. In determining the baseline, the council is not required to use the federal definition of homelessness and may include levels of housing instability or ranges of homelessness;
- B. Develops a method of measuring homelessness among veterans in the State to demonstrate whether efforts to reduce the number of homeless veterans in the State have been successful;
- C. Identifies specific processes for improving communication among agencies that provide services to veterans, including services unrelated to homelessness, that will facilitate identification of veterans in need of housing assistance or veterans who may be at risk of homelessness and maximize resources available to address homelessness among veterans; and
- D. Develops a framework and timeline for determining progress of communication and coordination efforts targeting homelessness among veterans and the effectiveness of those efforts in reducing homelessness among veterans.

The Director of the Bureau of Maine Veterans' Services shall periodically report to the council regarding the progress of implementing the strategies described in this subsection. Beginning February 1, 2018, the director shall report annually to the joint standing committee of the Legislature having jurisdiction over veterans affairs on the implementation of the strategic plan. The report must include, but is not limited to, the effect of the strategic plan on homelessness among veterans based on the measurements required to be established by this subsection.

United States Code Annotated

Title 29. Labor

Chapter 16. Vocational Rehabilitation and Other Rehabilitation Services (Refs & Annos)

Subchapter VII. Independent Living Services and Centers for Independent Living (Refs & Annos)

Part A. Individuals with Significant Disabilities (Refs & Annos)

Subpart 1. General Provisions (Refs & Annos)

29 U.S.C.A. § 796d

§ 796d. Statewide Independent Living Council

Effective: July 22, 2014

Currentness

**(a) Establishment**

To be eligible to receive financial assistance under this part, each State shall establish and maintain a Statewide Independent Living Council (referred to in this section as the "Council"). The Council shall not be established as an entity within a State agency.

**(b) Composition and appointment**

**(1) Appointment**

Members of the Council shall be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this chapter in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

**(2) Composition**

The Council shall include--

(A) among its voting members, at least 1 director of a center for independent living chosen by the directors of centers for independent living within the State;

(B) among its voting members, for a State in which 1 or more centers for independent living are run by, or in conjunction with, the governing bodies of American Indian tribes located on Federal or State reservations, at least 1 representative of the directors of such centers; and

(C) as ex officio, nonvoting members, a representative of the designated State entity, and representatives from State agencies that provide services for individuals with disabilities.

**(3) Additional members**

The Council may include--

- (A) other representatives from centers for independent living;
- (B) individuals with disabilities;
- (C) parents and guardians of individuals with disabilities;
- (D) advocates of and for individuals with disabilities;
- (E) representatives from private businesses;
- (F) representatives from organizations that provide services for individuals with disabilities; and
- (G) other appropriate individuals.

**(4) Qualifications**

**(A) In general**

The Council shall be composed of members--

- (i) who provide statewide representation;
- (ii) who represent a broad range of individuals with disabilities from diverse backgrounds;
- (iii) who are knowledgeable about centers for independent living and independent living services; and
- (iv) a majority of whom are persons who are--
  - (I) individuals with disabilities described in section 705(20)(B) of this title; and
  - (II) not employed by any State agency or center for independent living.

**(B) Voting members**

A majority of the voting members of the Council shall be--

(i) individuals with disabilities described in section 705(20)(B) of this title; and

(ii) not employed by any State agency or center for independent living.

**(5) Chairperson**

**(A) In general**

Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

**(B) Designation by Chief Executive Officer**

In States in which the Governor does not have veto power pursuant to State law, the appointing authority described in paragraph (1) shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

**(6) Terms of appointment**

**(A) Length of term**

Each member of the Council shall serve for a term of 3 years, except that--

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority described in paragraph (3)) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

**(B) Number of terms**

No member of the Council, other than a representative described in paragraph (2)(A) if there is only one center for independent living within the State, may serve more than two consecutive full terms.

**(7) Vacancies**

**(A) In general**

Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

**(B) Delegation**

The appointing authority described in paragraph (3) may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

**(c) Functions**

**(1) Duties**

The Council shall--

- (A)** develop the State plan as provided in section 796c(a)(2) of this title;
- (B)** monitor, review, and evaluate the implementation of the State plan;
- (C)** meet regularly, and ensure that such meetings of the Council are open to the public and sufficient advance notice of such meetings is provided;
- (D)** submit to the Administrator such periodic reports as the Administrator may reasonably request, and keep such records, and afford such access to such records, as the Administrator finds necessary to verify the information in such reports; and
- (E)** as appropriate, coordinate activities with other entities in the State that provide services similar to or complementary to independent living services, such as entities that facilitate the provision of or provide long-term community-based services and supports.

**(2) Authorities**

The Council may, consistent with the State plan described in section 796c of this title, unless prohibited by State law--

- (A)** in order to improve services provided to individuals with disabilities, work with centers for independent living to coordinate services with public and private entities;
- (B)** conduct resource development activities to support the activities described in this subsection or to support the provision of independent living services by centers for independent living; and

(C) perform such other functions, consistent with the purpose of this part and comparable to other functions described in this subsection, as the Council determines to be appropriate.

**(3) Limitation**

The Council shall not provide independent living services directly to individuals with significant disabilities or manage such services.

**(d) Hearings and forums**

The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

**(e) Plan**

**(1) In general**

The Council shall prepare, in conjunction with the designated State entity, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this part, and under section 730 of this title (consistent with section 721(a)(18) of this title), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

**(2) Supervision and evaluation**

Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

**(3) Conflict of interest**

While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State entity or any other agency or office of the State, that would create a conflict of interest.

**(f) Compensation and expenses**

The Council may use available resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (such as personal assistance services), and to pay reasonable compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

**CREDIT(S)**

(Pub.L. 93-112, Title VII, § 705, as added Pub.L. 105-220, Title IV, § 410, Aug. 7, 1998, 112 Stat. 1220; amended Pub.L. 105-277, Div. A, § 101(f) [Title VIII, § 402(c)(7)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416; Pub.L. 113-128, Title IV, § 475, July 22, 2014, 128 Stat. 1687.)

29 U.S.C.A. § 796d, 29 USCA § 796d

Current through P.L. 115-281. Also includes P.L. 115-283 to 115-333, and 115-335 to 115-338. Title 26 current through P.L. 115-442.

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34-B Statewide Quality Improvement Council

§3608. Community service networks

from Fed law.

The department shall establish and oversee community service networks with the collective responsibility to coordinate and ensure continuity of care within the delivery of mental health services to adult mental health consumers under the authority of the department. A network consists of organizations providing mental health services funded by the General Fund or Medicaid in the corresponding area specified in subsection 1-A. The community service networks must be established and operated in accordance with standards adopted by the department to establish and operate networks. Departmental oversight includes, but is not limited to, establishing and overseeing protocols, quality assurance, writing and monitoring contracts for service, establishing outcome measures and ensuring that each network provides an integrated system of care. The department may adopt rules to carry out this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. This section may not be construed to supersede the authority of the department as the single state Medicaid agency under the Social Security Act, Title XII or to affect the professional standards and practices of nonnetwork providers.

**1. Responsibilities.** Each network shall:

- A. Ensure 24-hour access to a consumer's community support services records for better continuity of care during a psychiatric crisis;
- B. Ensure continuity, accountability and coordination regarding service delivery;
- C. Participate in collection of uniform data;
- D. In conjunction with the department, conduct planning activities based on data and client outcomes;
- E. Develop techniques for identifying and providing services to consumers at risk, based on the principle that services will be provided as close to the consumer's home as possible;
- F. Enable, among other things, the sharing of confidential client information to the extent necessary to protect the client's health and safety when it is determined the client has an urgent need for mental health services. The network members shall share confidential client information, even without a client's consent, to the extent necessary to protect the client's health and safety in a period of urgent need for mental health services when the client lacks the capacity to give consent for the information sharing or when an exigency exists so that the client's health and safety is better protected if the information is shared without a delay to obtain consent. A person or entity participating in good faith in sharing information under this paragraph is immune from civil liability that might otherwise result from these actions, including, but not limited to, a civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. The department shall adopt rules to identify the limits and requirements to be included in the memoranda. These rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and
- G. Provide consolidated mental health crisis services for children and adults, beginning March 1, 2009, through a memorandum of understanding among providers of mental health services in the network that must include provisions to ensure coordination, eliminate duplication and provide a level of crisis services established by the department.

**1-A. Areas.** A community service network shall operate in each of the following geographic areas:

- A. Aroostook County;
- B. Hancock County, Washington County, Penobscot County and Piscataquis County;
- C. Kennebec County and Somerset County;
- D. Knox County, Lincoln County, Sagadahoc County and Waldo County;

- E. Androscoggin County, Franklin County and Oxford County;
- F. Cumberland County; and
- G. York County.

**2. Accountability.3. Public outreach.4. Participation.5. Data collection.** The department shall collect data to assess the capacity of the community service networks, including, but not limited to, analyses of utilization of mental health services and the unmet needs of persons receiving publicly funded mental health services.

**§3609. Statewide quality improvement council**

The commissioner shall designate persons to be members to serve on a statewide quality improvement council to advise the commissioner on issues of system implementation that have statewide impact. The commissioner shall appoint such other members to serve on the council as required by law.

## TITLE 5, SUBCHAPTER 4-A

### SUBSTANCE USE DISORDER SERVICES COMMISSION

#### §20065. Membership

**1. Members; appointment.** The Substance Use Disorder Services Commission, as established by section 12004-G, subsection 13-C, consists of 18 members.

**2. Qualifications.** To be qualified to serve, members must have education, training, experience, knowledge, expertise and interest in substance use disorder in the areas of intervention, prevention, treatment and recovery. Members must reflect experiential diversity from across the State and must have demonstrated active participation in issues related to substance use disorder.

**3. Members; representation.** The commission consists of the following members:

A. Two members of the Senate, appointed by the President of the Senate, and 2 members of the House of Representatives, appointed by the Speaker of the House of Representatives. Of the 2 members of the House of Representatives, one must be a member of the joint standing committee of the Legislature having jurisdiction over health and human services matters and one must be a member of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters;

B. One physician or health care provider experienced in the treatment of substance use disorder, appointed by the Governor;

C. One public school administrator who has experience with school-based substance use disorder intervention, prevention and education programs, appointed by the Governor;

D. One elementary school educator, appointed by the Governor;

E. One representative from nominations by a statewide community-based recovery coalition, appointed by the Governor;

F. One representative from the criminal justice system who represents or is involved with the substance use disorder criminal justice system, appointed by the Governor;

G. One educator involved in postsecondary substance use disorder intervention, prevention, treatment and recovery education, appointed by the Governor;

H. One substance use disorder intervention practitioner, one substance use disorder prevention practitioner, one substance use disorder treatment practitioner and one substance use disorder recovery practitioner, appointed by the Governor;

I. One private sector employer familiar with employee assistance programs, appointed by the Governor; and

J. Three members of the public, appointed by the Governor. In appointing these 3 members, the Governor shall select members who are actively involved in the areas of:

(6) Co-occurring disorder services;

(7) Employment; and

(8) Substance use disorder recovery.

**4. Term; vacancies.** Terms of appointment begin and expire on June 1st. A vacancy in the commission does not affect the commission's powers, but must be filled in accordance with this subsection.

A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed may be appointed only for the remainder of that term.

A. The terms of the 3 public members appointed under subsection 3, paragraph J are for terms of 3 years, except that a member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term. Members hold office until the appointment and confirmation of their successors. A public member may not be appointed for more than 2 consecutive, 3-year terms.

B. Members who are members of the Legislature and appointed by the President of the Senate or the Speaker of the House of Representatives serve at the pleasure of the appointing authority.

C.

**5. Reappointment; termination.** Members may be appointed for 2 consecutive terms only and may serve after the expiration of their terms until their successors have been appointed and qualified and have taken office. The appointing authority may terminate the appointment of a member for good and just cause and the appointing authority shall communicate the reason for the termination to the member terminated. The appointment of a member of the commission is terminated if a member is absent from 3 consecutive meetings without a good and just cause that is communicated to the chair of the commission.

**6. Officers.** The Governor shall designate one member to chair the commission. The commission may elect other officers from its members as it considers appropriate.

**7. Subcommittees.** The commission may appoint from its membership subcommittees relating to particular problem areas or other matters, provided that the commission functions as an integrated committee.

**8. Administrative and financial assistance.** The department shall provide the commission administrative or financial assistance that is available from department resources.

#### **§20066. Meetings; compensation; quorum**

**1. Calling meetings.** The commission shall meet at the call of the chair or at the call of at least 1/4 of the members appointed and currently holding office.

**2. Frequency of meetings.** The commission shall meet at least 12 times a year and at least once a month.

**3. Minutes.** The commission shall keep minutes of all meetings, including a list of people in attendance. The commission shall immediately send copies of the minutes to the Governor and the leadership of the Legislature, who shall provide for their appropriate distribution and retention in a place of safekeeping.

**4. Compensation.** Members of the commission are entitled to compensation under chapter 379.

**5. Quorum; council action.** A majority of the commission members constitutes a quorum for the purpose of conducting the business and exercising all the powers of the commission. A vote of a majority of the members present is sufficient for all actions of the commission.

#### **§20067. Duties of the commission**

The commission, in cooperation with the department, has the following duties.

##### **1. Oversee office.**

**1-A. Advise the department.** The commission shall advise the department in the development and implementation of significant policy matters relating to substance use disorder.

**2. Advise, consult and assist.** The commission shall advise, consult and assist the Governor, the executive and legislative branches of State Government and the Chief Justice of the Supreme Judicial Court with activities of State Government related to substance use disorder prevention.

**3. Serve as advocate; review and evaluate; inform the public.** The commission shall serve as an advocate and resource for the State on substance use disorder intervention, prevention, treatment and recovery. The commission shall promote and assess activities designed to meet and remediate challenges of substance use disorder in the State. With the support of the department, the commission shall review and evaluate on a continuing basis state and federal policies and programs relating to substance use disorder. In cooperation with the department, the commission shall keep the public informed by collecting and disseminating information, by conducting or commissioning studies and publishing the results of those studies, by issuing publications and reports and by providing public forums, including conferences and workshops. The commission, based on its activities pursuant to this subsection, shall make recommendations relating to substance use disorder to the department and the Governor.

**4. Report to the Legislature.** The commission shall report annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on or before the last business day of each year. The report must include developments and needs related to substance use disorder intervention, prevention, treatment and recovery in the State.



From the Volunteer Correspondent Program's website:

# Get To Know Us

## What We Do

The Volunteer Correspondent Program (VCP) supports access to professional services, and enhanced quality of life, deep-rooted community connections, maximum growth, development of social networks, and a planning process that truly focuses on the individual.

The VCP was created to support those Maine adults with intellectual and/or developmental disabilities who have no other family or friends to advocate for their needs.

## Our Mission

To prepare a network of qualified volunteer advocates and to link them in active partnerships with adults with ID/ASD.

The Volunteer Correspondent Program supports access to professional services, and enhanced quality of life, deep-rooted community connections, maximum growth, development of social networks, and a planning process that truly focuses on the individual. The VCP was created to support those Maine adults with intellectual and /or developmental disabilities having no other family or friends to advocate for their needs.

The Volunteer Correspondent Program currently employs a Program Coordinator to recruit, train, and provide ongoing support to Volunteer Correspondents.

Volunteer Correspondents are individuals who maintain contact with a person with an intellectual and/or developmental disability living in a Maine community, and are recognized through an official application process of the Maine Developmental Services Oversight and Advisory Board (MDSOAB). Any questions, concerns, or challenges are relayed to the Volunteer Correspondent Coordinator, and are then considered by the MDSOAB.

The VCP is under the oversight of the Maine Developmental Services Oversight and Advisory Board (MDSOAB), and was created as part of the agreement under the historic Pineland Consent Decree.

