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## **An Act To Implement the Recommendations of the Task Force To Address the Opioid Crisis in the State Regarding Respectful Language**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** treating a person with substance use disorder with respect, including in the language that is used in referring to the person, to the system of delivering services and to the services, offices and personnel of the Department of Health and Human Services, is important to the dignity of the person and to reducing stigma associated with having a disease and should be accomplished at the earliest possible time; and

**Whereas,** this Act replaces statutory references to "substance abuse" with "substance use disorder" consistent with respectful language recommended by the Task Force to Address the Opioid Crisis in the State; and

**Whereas,** this Act directs the Department of Health and Human Services to rename its office of substance abuse and mental health services and to change references to "substance abuse" in its rules, forms, policies and publications consistent with respectful language recommended by the Task Force to Address the Opioid Crisis in the State; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

### **PART A**

**Sec. A-1. 1 MRSA §125,** as enacted by PL 1985, c. 737, Pt. A, §2, is amended to read:

#### **§ 125. Alcohol Awareness Week**

The Governor shall annually issue a proclamation setting aside the first full week in December of each year as Alcohol Awareness Week. The proclamation shall invite and urge citizens, alcoholism service agencies, schools and other suitable organizations and groups to observe this week through appropriate activities. ~~The Alcohol and Drug Abuse Planning Committee shall, through the departments represented on the committee, make appropriate information available to citizens, organizations and groups within the limits of their budgets.~~

**Sec. A-2. 4 MRSA §421,** as amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

#### **§ 421. Establishment**

**1. Programs.** The Judicial Department may establish ~~alcohol and drug~~substance use disorder treatment programs in the Superior Courts and District Courts and may adopt administrative orders and court rules to govern the practice, procedure and administration of these programs. ~~Alcohol and drug~~Substance use disorder treatment programs must include local judges and must be community based and operated separately from juvenile drug courts.

**2. Goals.** The goals of the ~~alcohol and drug~~substance use disorder treatment programs authorized by this chapter include the following:

- A. To reduce ~~alcohol and drug~~abusesubstance use and dependency among criminal offenders;
- B. To reduce criminal recidivism;
- C. To increase personal, familial and societal accountability of offenders;
- D. To promote healthy and safe family relationships;
- E. To promote effective interaction and use of resources among justice system personnel and community agencies; and
- F. To reduce the overcrowding of prisons.

**3. Collaboration.** The following shall collaborate with and, to the extent possible, provide financial assistance to the Judicial Department in establishing and maintaining ~~alcohol and drug~~substance use disorder treatment programs:

- A. District attorneys, the Department of the Attorney General and statewide organizations representing prosecutors;
- B. Defense attorneys, including statewide organizations representing defense attorneys;
- C. The Department of Corrections;
- D. The Department of Health and Human Services;
- E. The Department of Public Safety;
- F. The Department of Education;
- G. The business community;
- H. Local service agencies; and
- I. Statewide organizations representing drug court professionals.

**Sec. A-3. 4 MRSA §422, sub-§2,** as amended by PL 2011, c. 657, Pt. AA, §2, is further amended to read:

**2. Pass-through services.** The Administrative Office of the Courts, with the assistance of the Coordinator of Diversion and Rehabilitation Programs, may enter into cooperative agreements or contracts with:

A. The Department of Health and Human Services or other federal-licensed treatment providers or state-licensed treatment providers to provide substance ~~abuse~~use disorder services for ~~alcohol and drug~~substance use disorder treatment program participants. To the extent possible, the ~~alcohol and drug~~substance use disorder treatment programs must access existing substance ~~abuse~~use disorder treatment resources for ~~alcohol and drug~~substance use disorder treatment program participants;

B. The Department of Corrections, Division of Community Corrections or other appropriate organizations to provide for supervision of ~~alcohol and drug~~substance use disorder treatment program participants;

C. The Department of Corrections or other appropriate organizations to provide for drug testing of ~~alcohol and drug~~substance use disorder treatment program participants;

D. Appropriate organizations to provide for a drug court manager at each ~~alcohol and drug~~substance use disorder treatment program location;

E. Appropriate organizations and agencies for training of ~~alcohol and drug~~substance use disorder treatment program staff and for evaluation of ~~alcohol and drug~~substance use disorder treatment program operations;

F. Appropriate local, county and state governmental entities and other appropriate organizations and agencies to encourage the development of diversion and rehabilitation programs; and

G. Appropriate organizations and agencies for the provision of medical, educational, vocational, social and psychological services, training, counseling, residential care and other rehabilitative services designed to create, improve or coordinate diversion or rehabilitation programs.

**Sec. A-4. 4 MRSA §423**, as amended by PL 2013, c. 159, §8, is further amended to read:

### **§ 423. Reports**

The Judicial Department shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by February 15th annually on the establishment and operation of ~~alcohol and drug~~substance abuse disorder treatment programs in the courts. The report must cover at least the following:

**1. Training.** Judicial training;

**2. Locations.** Locations in which the ~~alcohol and drug~~substance use disorder treatment programs are operated in each prosecutorial district;

**3. Participating judges and justices.** Judges and justices participating in the ~~alcohol and drug~~substance use disorder treatment programs at each location;

**4. Community involvement.** Involvement of the local communities, including the business community and local service agencies;

**5. Education.** Educational components;

**6. Existing resources.** Use of existing substance ~~abuse~~use disorder resources;

**7. Statistics.** Statistical summaries of each ~~alcohol and drug~~substance use disorder treatment program;

**8. Collaboration.** Demonstration of the collaboration required under section 421, subsection 3, including agreements and contracts, the entities collaborating with the Judicial Department, the value of the agreements and contracts and the amount of financial assistance provided by each entity; and

**9. Evaluation of programs.** Evaluation of ~~alcohol and drug~~substance use disorder treatment programs individually and overall.

**Sec. A-5. 5 MRSA §1591, sub-§2, ¶J,** as enacted by PL 2017, c. 284, Pt. GGGGGG, §2, is amended to read:

J. Any balance remaining in the Office of Substance ~~Abuse~~Use Disorder and Mental Health Services program, General Fund account at the end of any fiscal year to be carried forward for use by this program in the next fiscal year.

**Sec. A-6. 5 MRSA §1642, sub-§6,** as amended by PL 2011, c. 542, Pt. A, §2, is further amended to read:

**6. Social service.** "Social service" means any children's, youth, adult or elderly service and alcoholism, community action, developmental disability, ~~drug or substance abuse~~use disorder, home-heating assistance, juvenile, mental health, intellectual disability, older Americans, poverty, rehabilitation, transportation, weatherization or other social service that may be defined in the future and that is operated by the departments or the division utilizing state-administered funds, including related health and medical services and income supplementation programs.

**Sec. A-7. 5 MRSA §12004-G, sub-§13-C,** as enacted by PL 1993, c. 410, Pt. LL, §2, is amended to read:

**13-C.**

Executive/Drug Prevention and Treatment	Substance <del>Abuse</del> <u>Use</u> <u>Disorder</u> Services Commission	Expenses Only	5 MRSA §20065
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**Sec. A-8. 5 MRSA §12004-G, sub-§15-A,** as reenacted by PL 1993, c. 631, §1, is amended to read:

**15-A.**

Substance Abuse Use Disorder      Driver Education and Evaluation Programs Appeals Board      \$75/Day      5 MRSA §20078-A

**Sec. A-9. 5 MRSA §19202, sub-§2-B, ¶A**, as amended by PL 2011, c. 657, Pt. AA, §4, is further amended to read:

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 abuse 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.

**Sec. A-10. 5 MRSA §20001**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

### **§ 20001. Title**

This chapter may be known and cited as the "Maine Substance Abuse Use Disorder Prevention and Treatment Act."

**Sec. A-11. 5 MRSA §20002, sub-§1**, as amended by PL 2007, c. 116, §1, is further amended to read:

**1. Integrated and comprehensive approach.** To adopt an integrated approach to the problem of ~~alcohol and other drug abuses~~ substance use disorder and to focus all the varied resources of the State on developing a comprehensive and effective range of ~~alcohol and other drug abuses~~ substance use disorder prevention and treatment activities and services;

**Sec. A-12. 5 MRSA §20002, sub-§2**, as amended by PL 2011, c. 657, Pt. AA, §5, is further amended to read:

**2. Coordination of activities and services.** To establish within the Department of Health and Human Services the responsibility for planning, developing, implementing, coordinating and evaluating all of the State's ~~alcohol and other drug abuses~~substance use disorder prevention and treatment activities and services;

**Sec. A-13. 5 MRSA §20003, sub-§3-A**, as enacted by PL 1993, c. 410, Pt. LL, §4, is amended to read:

**3-A. Commission.** "Commission" means the Substance ~~Abuse~~Use Disorder Services Commission, as established by section 12004-G, subsection 13-C.

**Sec. A-14. 5 MRSA §20003, sub-§4**, as amended by PL 2007, c. 116, §2, is further amended to read:

**4. Community service provider.** "Community service provider" means a provider of ~~alcohol or drug abuses~~substance use disorder treatment or gambling addiction treatment, including, but not limited to, evaluation.

**Sec. A-15. 5 MRSA §20003, sub-§9**, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

**Sec. A-16. 5 MRSA §20003, sub-§10**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**10. Drug user.** "Drug ~~abuse~~user" means a person who uses any drugs, dependency-related drugs or hallucinogens in violation of any law of the State.

**Sec. A-17. 5 MRSA §20003, sub-§11**, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

**Sec. A-18. 5 MRSA §20003, sub-§17-A** is enacted to read:

**17-A. Person with substance use disorder.** "Person with substance use disorder" means a drug-dependent person who, due to the use of a dependency-related drug, has developed such a tolerance to the dependency-related drug that abrupt termination of its use would produce withdrawal symptoms.

**Sec. A-19. 5 MRSA §20003, sub-§18**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**18. Prevention.** "Prevention" means any activity designed to educate or provide information to individuals and groups about the use ~~or abuse~~ of alcohol and other drugs.

**Sec. A-20. 5 MRSA §20003, sub-§21**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**21. Substance Use Disorder Advisory Group.** "Substance ~~Abuse~~Use Disorder Advisory Group" means the group consisting of the 5 commissioners designated in section 20007.

**Sec. A-21. 5 MRSA §20003, sub-§21-A** is enacted to read:

**21-A. Substance use prevention.** "Substance use prevention" means all facilities, programs or services relating to substance use control, education, rehabilitation, research, training and treatment, and includes these functions as related to alcoholics and intoxicated persons. "Substance use prevention" includes such functions even when performed by an organization whose primary mission is the prevention of drug traffic or is unrelated to drugs. "Substance use prevention" does not include any function defined under subsection 19 as "prevention of drug traffic."

**Sec. A-22. 5 MRSA §20003, sub-§22**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**22. Treatment.** "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including career counseling, diagnostic evaluation, employment, health, medical, psychiatric, psychological, recreational, rehabilitative, social service care, treatment and vocational services, that may be extended to an alcoholic, intoxicated person, drug abuseruser, drug addietperson with substance use disorder, drug-dependent person or a person in need of assistance due to the use of a dependency-related drug.

**Sec. A-23. 5 MRSA §20005**, as amended by PL 2011, c. 657, Pt. AA, §§16 to 22, is further amended to read:

## **§ 20005.Powers and duties**

The department shall:

**1. State Government.** Establish the overall plans, policies, objectives and priorities for all state ~~alcohol and other drug abusesubstance use disorder~~ prevention and treatment functions, except the prevention of drug traffic and the State Employee Assistance Program established pursuant to Title 22, chapter 254-A;

**2. Comprehensive plan.** Develop and provide for the implementation of a comprehensive state plan for ~~alcohol and drug abusesubstance use disorder~~. Any plan developed by the department must be subject to public hearing prior to implementation;

**3. Information.** Ensure the collection, analysis and dissemination of information for planning and evaluation of ~~alcohol and drug abusesubstance use disorder~~ services;

**4. Coordination; organizational unit.** Ensure that ~~alcohol and drug abusesubstance use disorder~~ assistance and service are delivered in an efficient and coordinated program and, with the oversight of the commission, coordinate all programs and activities authorized by the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982), as amended, and by the Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982), as amended; and other state or federal programs or laws related to ~~drug abusesubstance use disorder~~ prevention that are not the specific responsibility of another state agency under federal or state law;

**5. Budget.** Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state ~~alcohol and drug abuse~~substance use disorder programs. The department shall make final recommendations to the Governor before any ~~substance abuse~~substance use disorder funds are appropriated or deappropriated in the Governor's proposed budget. The department shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs.

Notwithstanding any other provision of law, funding appropriated and allocated by the Legislature for the department for ~~substance abuse~~substance use disorder prevention and treatment is restricted solely to that use and may not be used for other expenses of the department. By January 15th of each year, the commissioner or the commissioner's designee shall deliver a report of the budget and expenditures of the department for ~~substance abuse~~substance use disorder prevention and treatment to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters;

**6. Contracts and licensing.** Through the commissioner:

A. Administer all contracts with community service providers for the delivery of ~~alcohol and drug abuse~~substance use disorder services;

A-1. Administer all contracts with community service providers for the delivery of gambling addiction counseling services; and

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, ~~drug abuse~~substance use disorder treatment facilities or programs, including residential treatment centers, community-based service providers and facilities that are private nonmedical institutions pursuant to section 20024 and subchapter 5.

The commissioner may delegate contract and licensing duties under this subsection to the Department of Corrections as long as that delegation ensures that contracting for ~~alcohol and other drug abuse~~substance use disorder services provided in community settings is consolidated within the department, that contracting for ~~alcohol and other drug abuse~~substance use disorder services delivered within correctional facilities is consolidated within the Department of Corrections and that contracting for ~~alcohol and other drug abuse~~substance use disorder services delivered within mental health facilities or as a component of programs serving persons with intellectual disabilities or autism is consolidated within the department.

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.



The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

The commissioner shall establish a procedure to obtain assistance and advice from consumers of ~~alcohol and other drug abuses~~substance use disorder services regarding the selection of contractors when requests for proposals are issued;

**6-A. Contract award and renewal.** Award a new contract through a request-for-proposal procedure. Any contract of \$500,000 per year or more that is renewed must be awarded through a request-for-proposal procedure at least every 8 years, except for the following.

A. A renewal contract with a provider is not subject to the request-for-proposal procedure requirement if the contract granted under this subsection is performance based.

B. Notwithstanding paragraph A, the department shall subject a contract to a request-for-proposal procedure when necessary to comply with paragraph C.

C. A contract under this subsection that is subject to renewal must be awarded through a request-for-proposal procedure if the department determines that:

- (1) The provider has breached the existing contract;
- (2) The provider has failed to correct deficiencies cited by the department;
- (3) The provider is inefficient or ineffective in the delivery of services and is unable to improve its performance within a reasonable time; or
- (4) The provider can not or will not respond to a reconfiguration of service delivery requested by the department;

**6-B. Consumer assistance and advice.** Establish a procedure to obtain assistance and advice from consumers of ~~substance abuse~~substance use disorder services regarding the selection of contractors when requests-for-proposals are issued.

**7. Uniform requirements.** Develop, use and require the use of uniform contracting, information gathering and reporting formats by any state-funded ~~alcohol and other drug abuses~~substance use disorder programs. Contracting standards must include measurable performance-based criteria on which funding allocations are, in part, based;

**8. Reports.** By January 15th of each year, report to the Legislature on the accomplishments of the past year's programs, the progress toward obtaining goals and objectives of the comprehensive state plan and other necessary or desirable information;

**9. Funds.** Have the authority to seek and receive funds from the Federal Government and private sources to further the purposes of this Act;

**10. Agreements.** Enter into agreements necessary or incidental to the purposes of this Act;

**11. Cooperation.** Provide support and guidance to individuals, local governments, public organizations and private organizations in their ~~alcohol and drug abuse~~substance use disorder prevention activities;

**12. Rules.** Adopt rules, in accordance with the Maine Administrative Procedure Act, necessary to carry out the purposes of this chapter and approve any rules adopted by state agencies for the purpose of implementing ~~alcohol or drug abuse~~substance use disorder prevention or treatment programs.

All state agencies must comply with rules adopted by the department regarding uniform alcohol and other drug ~~abuse~~use contracting requirements, formats, schedules, data collection and reporting requirements;

**12-A. Training programs.** Provide or assist in the provision of training programs for all persons in the field of treating alcoholics and drug ~~abusers~~users, persons engaged in the prevention of ~~alcohol and other drug abuse~~substance use disorder or any other organization or individual in need of or requesting training or other educational information related to ~~alcohol or other drug abuse~~substance use disorder;

**12-B. Motor vehicle operator programs.** Administer and oversee the operation of the State's programs related to the ~~abuse~~use of alcohol by motor vehicle operators;

**13. General authority.** Perform other acts or exercise any other powers necessary or convenient to carry out the purposes of this chapter;

**14. Interdepartmental cooperation.** Document to the Legislature's satisfaction active participation and cooperation between the department and the other departments with which it works through the commission;

**15. Public input.** Document an active, aggressive effort to obtain client and public input on its decision-making process through public hearings and other activities conducted by the commission;

**16. Substance use disorder services plan.** Plan for ~~not only~~ those services funded directly by the department, ~~but also~~and those additional services determined by the commission to be critical and related;

**17. Program services assessment and implementation.** Analyze the existing services system, including the prevention services offered within the State's public school systems, identify gaps, strengths and weaknesses in the current services, identify priorities for expanding or revising the existing services and develop a specific plan to accomplish the most critical changes that are needed;

**18. Comprehensive training strategy.** Establish a comprehensive training strategy designed to develop the capacity of front-line staff in direct human services positions, including appropriate state agency staff, to recognize, assess and refer chemically dependent clients for appropriate treatment;

**19. Fiscal and program accountability.** Enhance its current efforts to ensure fiscal and program accountability for the services it purchases and provides;

**20. Review policies.** Review the full range of public policies and strategies existing in State Government to identify changes that would strengthen its response, identify policies that might discourage excessive consumption of alcohol and other drugs and generate new funding for alcohol and other drug services; and

**21. List of banned performance-enhancing substances.** Develop and maintain a list of banned performance-enhancing substances in accordance with Title 20-A, section 6621.

**Sec. A-24. 5 MRSA §20005-A, first ¶**, as amended by PL 2007, c. 116, §5, is further amended to read:

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of ~~alcohol or other drug abuse~~substance use disorder services, as well as all funds available for the provision of gambling addiction counseling services, in accordance with the provisions of this section.

**Sec. A-25. 5 MRSA §20005-A, sub-§2**, as amended by PL 1995, c. 560, Pt. L, §6 and affected by §16, is further amended to read:

**2. Performance-based contract.** The commissioner shall ensure that all agreements to purchase ~~alcohol or other drug abuse~~substance use disorder services entered into on or after July 1, 1995 are performance-based contracts.

**Sec. A-26. 5 MRSA §20006-A, sub-§1**, as enacted by PL 1995, c. 560, Pt. L, §8 and affected by §16, is amended to read:

**1. Alternatives.** Propose alternatives to current ~~alcohol and drug abuse~~substance use disorder prevention and treatment programs and services;

**Sec. A-27. 5 MRSA §20006-A, sub-§2**, as amended by PL 2011, c. 657, Pt. AA, §23, is further amended to read:

**2. Investigate.** Conduct investigations and studies of any ~~alcohol or drug abuse~~substance use disorder program or community service provider operating under the control of the department or providing treatment under this chapter through a contract with the department under section 20008 that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or local funds, as necessary; and

**Sec. A-28. 5 MRSA §20007**, as amended by PL 2011, c. 657, Pt. AA, §25, is further amended to read:

### **§ 20007. Agency cooperation**

State agencies shall cooperate fully with the department in carrying out this chapter. A state agency may not develop, establish, conduct or administer any ~~alcohol or drug abuse~~substance use disorder prevention or treatment program without the approval of the department. The department may request personnel, facilities and data from other agencies as the commissioner finds necessary to fulfill the purposes of this Act.

**Sec. A-29. 5 MRSA §20008**, as amended by PL 2011, c. 657, Pt. AA, §§26 to 28, is further amended to read:

### **§ 20008. Comprehensive program on substance use disorder**

The department shall establish and provide for the implementation of a comprehensive and coordinated program of ~~alcohol and drug abuse~~substance use disorder prevention and treatment in accordance with subchapters 2 and 3 and the purposes of this Act. The program must include the following elements.

**1. Public and private resources.** All appropriate public and private resources must be coordinated with and utilized in the program.

**2. Program.** The program must include emergency treatment provided by a facility affiliated with a general hospital or with part of the medical service of a general hospital.

**3. Treatment.** The department shall provide for adequate and appropriate treatment for alcoholics, ~~drug abusers~~users, ~~drug addicts~~persons with substance use disorder and drug-dependent persons admitted under sections 20043 ~~to~~and 20044. Treatment may not be provided at a correctional institution, except for inmates.

**4. Contract with facilities.** The department shall contract with approved treatment facilities whenever possible. The administrator of any treatment facility may receive for observation, diagnosis, care and treatment in the facility any person whose admission is applied for under any of the procedures in this subchapter.

**Sec. A-30. 5 MRSA §20009**, as amended by PL 2011, c. 657, Pt. AA, §29, is further amended to read:

### **§ 20009. Planning**

The department shall plan ~~alcohol and drug abuse~~substance use disorder prevention and treatment activities in the State and prepare and submit to the Legislature the following documents:

**1. Biennial plan.** By January 15, 1991, and biennially thereafter, ~~with the advice and consultation of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment,~~ a comprehensive plan containing statements of measurable goals to be accomplished during the coming biennium and establishing performance indicators by which progress toward accomplishing those goals will be measured; and

**2. Four-year assessment.** By January 15, 1991, and every 4th year thereafter, an assessment of the costs related to drug ~~abuse~~misuse in the State and the needs for various types of services within the State, including geographical disparities in the needs for various types of services and the needs of special populations of drug ~~abusers~~users.

**Sec. A-31. 5 MRSA §20021**, as amended by PL 2011, c. 657, Pt. AA, §30, is further amended to read:

### **§ 20021. Public awareness**

The department shall create and maintain a program to increase public awareness of the impacts and prevalence of ~~alcohol and drug abuse~~substance use disorder. The public awareness program must include promotional and technical assistance to local governments, schools and public and private nonprofit organizations interested in ~~alcohol and drug abuse~~substance use disorder prevention.

**Sec. A-32. 5 MRSA §20022**, as amended by PL 2011, c. 657, Pt. AA, §31, is further amended to read:

### **§ 20022. Information dissemination**

As part of its comprehensive prevention and treatment program, the department shall operate an information clearinghouse and oversee, support and coordinate a resource center within the Department of Education. The information clearinghouse and resource center constitute a comprehensive reference center of information related to the nature, prevention and treatment of ~~alcohol and other drug abuse~~substance use disorder. In fulfillment of the requirement of this section, the resource center may be located within the Department of Education and may operate there pursuant to a memorandum of agreement between the departments. Information must be available for use by the general public, political subdivisions, public and private nonprofit agencies and the State.

Functions of the information clearinghouse and resource center may include, but are not limited to:

**1. Research.** Conducting research on the causes and nature of drugs, ~~drug abuse~~substance use or people who are dependent on drugs, especially alcoholics and intoxicated persons;

**2. Information collection.** Collecting, maintaining and disseminating knowledge, data and statistics related to drugs, ~~drug abuse~~substance use and ~~drug abuse~~substance use disorder prevention;

**3. Educational materials.** Preparing, publishing and disseminating educational materials; and

**4. Treatment facilities.** Maintaining an inventory of the types and quantity of ~~drug~~ substance use prevention facilities, programs and services available or provided under public or private auspices to ~~drug-addicted~~ persons with substance use disorder, drug ~~abusers~~ users and drug-dependent persons, especially alcoholics and intoxicated persons. This function includes the unduplicated count, locations and characteristics of persons receiving treatment, as well as the frequency of admission and readmission and the frequency and duration of treatment of those persons. The inventory must include the amount, type and source of resources for ~~drug-abuse~~ substance use disorder prevention.

**Sec. A-33. 5 MRSA §20023, first ¶**, as amended by PL 2011, c. 657, Pt. AA, §32, is further amended to read:

To the fullest extent possible, the Commissioner of Education shall coordinate all elementary and secondary school ~~alcohol and drug-abuse~~ substance use disorder education programs administered by the Department of Education and funded under the federal Drug-Free Schools and Communities Act of 1986 with programs administered by the Department of Health and Human Services. The Commissioner of Education shall participate in planning, budgeting and evaluation of ~~alcohol and other drug-abuse~~ substance use disorder programs, in cooperation with the Substance Abuse Use Disorder Advisory Group, and ensure that ~~alcohol and drug-abuse~~ substance use disorder education programs administered by the Department of Education that involve any community participation are coordinated with available treatment services.

**Sec. A-34. 5 MRSA §20041**, as amended by PL 2011, c. 657, Pt. AA, §34, is further amended to read:

## **§ 20041. Evaluation**

**1. Data collection; sources.** The department shall collect data and use information from other sources to evaluate or provide for the evaluation of the impact, quality and value of ~~alcohol and drug-abuse~~ substance use disorder prevention activities, treatment facilities and other ~~alcohol and other drug-abuse~~ substance use disorder programs.

**2. Content of evaluation.** Any evaluation of treatment facilities must include, but is not limited to, administrative adequacy and capacity, policies and treatment planning and delivery. ~~Alcohol and drug-abuse~~ Substance use disorder prevention and treatment services authorized by this Act and by the following federal laws and amendments that relate to ~~drug-abuse~~ substance use disorder prevention must be evaluated:

- A. The Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982);
- B. The Community Mental Health Centers Act, 42 United States Code, Section 2688 et seq. (1982);
- C. The Public Health Service Act, 42 United States Code, Section 1 et seq. (1982);
- D. The Vocational Rehabilitation Act, 29 United States Code, Section 701 et seq. (1982);

E. The Social Security Act, 42 United States Code, Section 301 et seq. (1982); and

F. The federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982) and similar Acts.

**Sec. A-35. 5 MRSA §20043**, as amended by PL 2011, c. 657, Pt. AA, §§36 to 38, is further amended to read:

**§ 20043. Acceptance for treatment of alcoholics, drug users, persons with substance use disorder and drug-dependent persons**

The department shall adopt rules for acceptance of persons into a treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, drug abusersusers, drug-addictspersons with substance use disorder and drug-dependent persons.

In establishing rules, the department must be guided by the following standards.

**1. Voluntary basis.** People must be treated on a voluntary basis.

**2. Initial assignment.** A person must be initially assigned or transferred to outpatient or intermediate treatment, unless the person is found to require residential treatment.

**3. Denial of treatment.** A person may not be denied treatment solely because that person has withdrawn from treatment against medical advice on a prior occasion or has relapsed after earlier treatment.

**4. Individualized treatment plan.** An individualized treatment plan must be prepared and maintained on a current basis for each patient.

**5. Coordinated treatment.** Provision must be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment has available and may utilize other appropriate treatment.

**6. Denial of treatment services.** A person, firm or corporation licensed by the department as an approved alcohol or drugsubstance use disorder treatment facility under Title 5, section 20005 to provide shelter or detoxification services, and that receives any funds administered by the department to provide substance abuseuse disorder prevention and treatment services, may not deny treatment to any person because of that person's inability or failure to pay any assessed fees.

**7. Community-based.** Treatment must be provided in the least restrictive setting possible and in the person's home community wherever possible.

**8. Diagnosing.** Diagnosing of a person's mental capabilities, psychological or personality composition, or other nonalcohol-related or drug-related conditions or mental states may not be conducted until detoxification is complete and the person is judged to be medically no longer under the influence of a chemical or substance-of-abusedrug.

**Sec. A-36. 5 MRSA §20044**, as amended by PL 2011, c. 657, Pt. AA, §39, is further amended to read:

**§ 20044. Voluntary treatment of alcoholics, drug users, persons with substance use disorder and drug-dependent persons**

**1. Voluntary treatment.** An alcoholic, drug ~~abuser~~user, ~~drug-addict~~person with substance use disorder or drug-dependent person may apply for voluntary treatment directly to an approved treatment facility.

**2. Determination.** A person who comes voluntarily or is brought to an approved treatment facility for residential care and treatment must be examined immediately by a licensed physician. That person may then be admitted or referred to another health facility based upon the physician's recommendation. Subject to rules adopted by the department, the administrator in charge of an approved treatment facility may determine who may be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator, subject to rules adopted by the department, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

**3. Outpatient or intermediate treatment.** If a person receiving residential care leaves an approved treatment facility, that person must be encouraged to consent to appropriate outpatient or intermediate treatment.

**4. Discharge.** If a person leaves an approved treatment facility, against the advice of the administrator in charge of the facility and that person does not have a home, the patient must be assisted in obtaining shelter.

**Sec. A-37. 5 MRSA §20047, sub-§2**, as amended by PL 2011, c. 657, Pt. AA, §40, is further amended to read:

**2. Information for research.** Notwithstanding subsection 1, the commissioner may make available information from patients' records for purposes of research into the causes and treatment of ~~alcoholism and drug abuses~~substance use disorder. Information under this subsection may not be published in a way that discloses patients' names or other identifying information.

**Sec. A-38. 5 MRSA §20065, sub-§1**, as amended by PL 1999, c. 401, Pt. FFF, §1, is further amended to read:

**1. Members; appointment.** The Substance ~~Abuse~~Use Disorder Services Commission, as established by section 12004-G, subsection 13-C, consists of 21 members.

**Sec. A-39. 5 MRSA §20065, sub-§2**, as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

**2. Qualifications.** To be qualified to serve, members must have education, training, experience, knowledge, expertise and interest in ~~drug abuses~~substance use disorder prevention and training. Members must reflect experiential diversity and concern for ~~drug abuses~~substance use disorder prevention and



treatment in the State. Members must have an unselfish and dedicated personal interest demonstrated by active participation in ~~drug abuse~~substance use disorder programs such as prevention, treatment, rehabilitation, training or research in ~~drug abuse and alcohol abuse~~substance use disorder.

**Sec. A-40. 5 MRSA §20065, sub-§3**, as amended by PL 2001, c. 303, §1, is further amended to read:

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

A. One member of the Senate, appointed by the President of the Senate, and 5 members of the Legislature who may be members of either the Senate or the House of Representatives, appointed by the President of the Senate if Senators or the Speaker of the House if members of the House of Representatives and 2 of these 5 at-large members of the Legislature must be members of the joint standing committee of the Legislature having jurisdiction over health and human services matters;

B. One physician experienced in the treatment of substance abuseuse disorder, appointed by the Governor;

C. One public school superintendent who has experience with school-based substance abuseuse disorder 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 alliance for addiction recovery appointed by the Governor;

F. One attorney who represents clients involved with the substance abuseuse disorder system, appointed by the Governor;

G. One educator involved in postsecondary substance abuseuse disorder education, appointed by the Governor;

H. One substance abuseuse disorder prevention practitioner, one substance abuseuse disorder education practitioner and one substance abuseuse disorder treatment practitioner, appointed by the Governor;

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

J. Five members of the public, appointed by the Governor. In appointing these 5 members, the Governor shall select members from outstanding people in the following areas:

(1) ~~Drug abuse~~Substance use disorder prevention;

(2) ~~Drug abuse~~Substance use disorder treatment;

(3) Education;

(4) Employers; and

(5) Persons affected by or recovering from alcoholism, ~~chronic intoxication, drug abuse or drug dependency~~ or substance use disorder, evidenced by a minimum of 3 years of sobriety or abstinence from drug ~~abuse~~ or alcohol use.

**Sec. A-41. 5 MRSA §20067**, as amended by PL 2011, c. 657, Pt. AA, §§44 to 46, is further amended to read:

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

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

**1-A. Advise the department.** The commission shall advise the department in the development and implementation of significant policy matters relating to substance abuse or 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 ~~drug abuse~~ substance use disorder prevention, including alcoholism and intoxication.

**3. Serve as advocate; review and evaluate; inform the public.** The commission shall serve as an advocate on ~~alcoholism and drug abuse~~ substance use disorder prevention, promoting and assisting activities designed to meet the problems of ~~drug abuse~~ substance use and drug dependence at the national and state levels. With the support of the department, the commission shall review and evaluate on a continuing basis state and federal policies and programs relating to ~~drug abuse~~ substance use and other activities conducted or assisted by state departments or agencies that affect persons who ~~abuse~~ use or are dependent on drugs. 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.

**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 ~~drug abuse~~ substance use disorder prevention, including alcoholism and intoxication, and significant policy matters relating to substance abuse or substance use disorder.

**Sec. A-42. 5 MRSA §20074**, as amended by PL 2011, c. 657, Pt. AA, §49, is further amended to read:

### **§ 20074. Separation of evaluation and treatment functions**

A Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance ~~abuse~~use disorder treatment facility approved or licensed by the department providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in programs under this subchapter unless a waiver is granted on a case-by-case basis by the Driver Education and Evaluation Programs. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom ~~may~~is not be employed by the same agency as the practitioner or counselor conducting the evaluation.

**Sec. A-43. 5 MRSA §20078-A, sub-§1**, as enacted by PL 1993, c. 631, §7, is amended to read:

**1. Qualifications.** Each member of the board must have training, education, experience and demonstrated ability in successfully treating clients who have substance ~~abuse problems~~use disorder. Board members may not hold a current certificate to provide driver education, evaluation and treatment services during their terms of appointment.

**Sec. A-44. 8 MRSA §1001, sub-§§11 and 12**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, are amended to read:

**11. Drug user.** "Drug ~~abuse~~user" has the same meaning as set forth in Title 5, section 20003, subsection 10.

**12. Person with substance use disorder.** "~~Drug-addict~~Person with substance use disorder" has the same meaning as set forth in Title 5, section 20003, subsection ~~11~~17-A.

**Sec. A-45. 8 MRSA §1003, sub-§3, ¶1**, as amended by PL 2013, c. 212, §10, is further amended to read:

I. Establishment of a list of persons who are to be excluded or removed from any slot machine facility or casino, including those persons who voluntarily request that their names be included on the list of excluded persons. These rules must:

(1) Define the standards for exclusion and removal and include standards regarding persons who are career or professional offenders, as defined by rules of the board, whose presence in a slot machine facility or casino would, in the opinion of the board, be inimical to the interest of the State; and

(2) Provide that, before making a payout of winnings in an amount equal to or greater than the amount for which the licensee is required to file a Form W-2G or substantially equivalent form with the United States Internal Revenue Service, the licensee, after any interception of winnings required by law to pay child support debt or other obligations, shall intercept money or anything of value that an excluded person is seeking to redeem as a result of wagers made by the person after that person has been excluded. The rules must offer the excluded person the right to an administrative hearing with reasonable notice to contest the interception of winnings.

Winnings intercepted must be remitted by the licensee to the board or its designee for deposit in an Other Special Revenue Funds account within the office of substance ~~abuse~~use disorder within the Department of Health and Human Services to address gambling addiction;

**Sec. A-46. 8 MRSA §1016, sub-§2, ¶E**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

E. Is not a fugitive from justice, a drug ~~abuser~~user, a ~~drug addict~~person with substance use disorder, a drug-dependent person, an illegal alien or a person who was dishonorably discharged from the Armed Forces of the United States;

**Sec. A-47. 10 MRSA §8003-B, sub-§2-A**, as amended by PL 2009, c. 465, §2, is further amended to read:

**2-A. Certain client records confidential.** Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission or in connection with a regulatory function within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance ~~abuse~~use disorder, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person;

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions;

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation;

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect.

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

**Sec. A-48. 15 MRSA §1026, sub-§3, ¶A**, as amended by PL 2015, c. 436, §4, is further amended to read:

A. If, after consideration of the factors listed in subsection 4, the judicial officer determines that the release described in subsection 2-A will not reasonably ensure the appearance of the defendant at the time and place required, will not reasonably ensure that the defendant will refrain from any new criminal conduct, will not reasonably ensure the integrity of the judicial process or will not reasonably ensure the safety of others in the community, the judicial officer shall order the pretrial release of the defendant subject to the least restrictive further condition or combination of conditions that the judicial officer determines will reasonably ensure the appearance of the defendant at the time and place required, will reasonably ensure that the defendant will refrain from any new criminal conduct, will reasonably ensure the integrity of the judicial process and will reasonably ensure the safety of others in the community. These conditions may include that the defendant:

- (1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure the appearance of the defendant at the time and place required, that the defendant will refrain from any new criminal conduct, the integrity of the judicial process and the safety of others in the community. When it is feasible to do so, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may interview the designated person or organization to ensure satisfaction of both the willingness and ability required. The designated person or organization shall agree to notify immediately the judicial officer of any violation of release by the defendant;
- (2) Maintain employment or, if unemployed, actively seek employment;
- (3) Maintain or commence an educational program;
- (4) Abide by specified restrictions on personal associations, place of abode or travel;
- (5) Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;
- (6) Report on a regular basis to a designated law enforcement agency or other governmental agency;

(7) Comply with a specified curfew;

(8) Refrain from possessing a firearm or other dangerous weapon;

(9) Refrain from the possession, use or excessive use of alcohol and from any use of illegal drugs. A condition under this subparagraph may be imposed only upon the presentation to the judicial officer of specific facts demonstrating the need for such condition;

(9-A) Submit to:

(a) A random search for possession or use prohibited by a condition imposed under subparagraph (8) or (9); or

(b) A search upon articulable suspicion for possession or use prohibited by a condition imposed under subparagraph (8) or (9);

(10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;

(10-A) Enter and remain in a long-term residential facility for the treatment of substance ~~abuse~~use disorder;

(11) Execute an agreement to forfeit, in the event of noncompliance, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;

(12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community;

(13) Return to custody for specified hours following release for employment, schooling or other limited purposes;

- (14) Report on a regular basis to the defendant's attorney;
- (15) Notify the court of any changes of address or employment;
- (16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;
- (17) Inform any law enforcement officer of the defendant's condition of release if the defendant is subsequently arrested or summonsed for new criminal conduct;
- (18) Satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community; and
- (19) Participate in an electronic monitoring program, if available.

**Sec. A-49. 15 MRSA §1026, sub-§4, ¶C**, as amended by PL 2011, c. 680, §2, is further amended to read:

C. The history and characteristics of the defendant, including, but not limited to:

- (1) The defendant's character and physical and mental condition;
- (2) The defendant's family ties in the State;
- (3) The defendant's employment history in the State;
- (4) The defendant's financial resources;
- (5) The defendant's length of residence in the community and the defendant's community ties;
- (6) The defendant's past conduct, including any history relating to drug or alcohol ~~abuse~~abuse;
- (7) The defendant's criminal history, if any;
- (8) The defendant's record concerning appearances at court proceedings;

(9) Whether, at the time of the current offense or arrest, the defendant was on probation, parole or other release pending trial, sentencing, appeal or completion of a sentence for an offense in this jurisdiction or another;

(9-A) Any evidence that the defendant poses a danger to the safety of others in the community, including the results of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety;

(10) Any evidence that the defendant has obstructed or attempted to obstruct justice by threatening, injuring or intimidating a victim or a prospective witness, juror, attorney for the State, judge, justice or other officer of the court; and

(11) Whether the defendant has previously violated conditions of release, probation or other court orders, including, but not limited to, violating protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

**Sec. A-50. 15 MRSA §1105**, as amended by PL 2003, c. 205, §2, is further amended to read:

**§ 1105. Substance use disorder treatment program**

As a condition of post-conviction release, the court may impose the condition of participation in an ~~alcohol and drug~~ substance use disorder treatment program for a period not to exceed 24 months pursuant to Title 4, chapter 8. Upon request of the Department of Corrections, the court may require the defendant to pay a ~~substance abuse~~ substance use testing fee as a requirement of participation in the ~~alcohol or drug~~ substance use disorder treatment program. If at any time the court finds probable cause that a defendant released with a condition of participation in an ~~alcohol and drug~~ substance use disorder treatment program has intentionally or knowingly violated any requirement of the defendant's participation in the ~~alcohol or drug~~ substance use disorder treatment program, the court may suspend the order of bail for a period of up to 7 days for any such violation. The defendant must be given an opportunity to personally address the court prior to the suspension of an order of bail under this section. A period of suspension of bail is a period of detention under Title 17-A, section 1253, subsection 2. This section does not restrict the ability of the court to take actions other than suspension of the order of bail for the violation of a condition of participation in an ~~alcohol and drug~~ substance use disorder treatment program or the ability of the court to entertain a motion to revoke bail under section 1098 and enter any dispositional order allowed under section 1099-A. If the court orders participation in a ~~drug and alcohol~~ substance use disorder treatment program under this section, upon sentencing the court shall consider whether there has been compliance with the program.

**Sec. A-51. 15 MRSA §3314, sub-§4**, as amended by PL 2003, c. 180, §9 and c. 689, Pt. B, §6, is further amended to read:



**4. Medical support.** Whenever the court commits a juvenile to a Department of Corrections juvenile correctional facility or to the Department of Health and Human Services or for a period of detention or places a juvenile on a period of probation, it shall require the parent or legal guardian to provide medical insurance for or contract to pay the full cost of any medical treatment, mental health treatment, substance ~~abuse~~use disorder treatment and counseling that may be provided to the juvenile while the juvenile is committed, including while on aftercare status or on probation, unless it determines that such a requirement would create an excessive hardship on the parent or legal guardian, or other dependent of the parent or legal guardian, in which case it shall require the parent or legal guardian to pay a reasonable amount toward the cost, the amount to be determined by the court.

An order under this subsection is enforceable under Title 19-A, section 2603.

**Sec. A-52. 17-A MRSA §1204, sub-§2-A, ¶I,** as amended by PL 1989, c. 693, §2, is further amended to read:

I. To refrain from drug ~~abuse~~use and use or excessive use of alcohol;

**Sec. A-53. 18-A MRSA §9-401, sub-§(d), ¶(6),** as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

(6). Has in the family background factors such as severe mental illness, substance ~~abuse~~use disorder, prostitution, genetic or medical conditions or illnesses that place the child at risk for future problems.

**Sec. A-54. 20-A MRSA §1001, sub-§9,** as amended by PL 2011, c. 614, §4, is further amended to read:

**9. Students expelled or suspended.** Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, a school board shall expel any student:

A. Who is deliberately disobedient or deliberately disorderly;

B. For infractions of violence;

C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official;

D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury; or

E. Who possesses, furnishes or trafficks in any scheduled drug as defined in Title 17-A, chapter 45.

A student may be readmitted on satisfactory evidence that the behavior that was the cause of the student being expelled will not likely recur. The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. In addition to other powers and duties under

this subsection, the school board may develop a policy requiring a student who is in violation of school substance ~~abuse~~ or possession rules to participate in substance ~~abuse~~ substance use disorder services as provided in section 6606. Nothing in this subsection or subsection 9-C prevents a school board from providing educational services in an alternative setting to a student who has been expelled.

**Sec. A-55. 20-A MRSA §6001-B, sub-§2, ¶B**, as enacted by PL 2003, c. 472, §1, is amended to read:

B. Records concerning information on a person's ~~alcohol and other drug abuses~~ substance use disorder treatment as those records are described in Title 5, section 20047;

**Sec. A-56. 20-A MRSA §6604**, as enacted by PL 1987, c. 395, Pt. A, §70, is amended to read:

### **§ 6604. Substance use disorder programs**

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

A. "Chemical health coordinator" means a person who serves as the coordinator of a local school administrative unit's chemical primary and secondary prevention and education program.

**2. Local programs.** School units may institute special programs to address health and related problems.

To further these objectives, school units may employ specialized personnel such as chemical health coordinators and others knowledgeable ~~in the field of~~ about substance ~~abuse~~ and may cooperate with public and private agencies in substance ~~abuse~~ substance use disorder education, prevention, early intervention, rehabilitation referral and related programs.

**Sec. A-57. 20-A MRSA §6605**, as amended by PL 1989, c. 700, Pt. A, §51, is further amended to read:

### **§ 6605. Department role**

**1. Personnel.** The commissioner shall appoint, subject to the Civil Service Law, supervisors and consultants knowledgeable ~~in the area of~~ about substance ~~abuse~~.

**2. Technical assistance.** The department, through its supervisors and consultants, shall offer technical assistance to public and approved private schools and cooperating community-based organizations to aid in the establishment and implementation of school-based substance ~~abuse~~ substance use disorder programs and health education curricula.

**3. Cooperation; coordination.** The department shall carry out its planning activities related to alcohol and drug education and prevention ~~subject to coordination with the Alcohol and Drug Abuse Planning Committee.~~

**4. Information collection and sharing.** The Department of Education shall be authorized to gather information about substance ~~abuse~~use disorder prevention and intervention programs initiated by state or federal agencies whose efforts are directed toward private and public schools of the State, for the purpose of sharing that information with school administrative units.

**Sec. A-58. 20-A MRSA §6606**, as enacted by PL 1989, c. 708, §3, is amended to read:

**§ 6606. Participation in substance use disorder services**

In compliance with written school policy adopted by a school board, the school board may require that a student who has been determined to be in violation of school rules governing substance ~~abuse~~use or alcohol or drug possession participate in a substance ~~abuse~~use assessment, education or support group service offered by the school. The school board shall provide for notice to the parents or legal guardian of a student required to participate in such services. If the school board elects to do so, it may request a parent or legal guardian to participate in the services.

**Sec. A-59. 20-A MRSA §9701, sub-§1**, as enacted by PL 1987, c. 827, §1, is amended to read:

**1. Drug treatment center.** "Drug treatment center" means a facility as defined in Title 22, section 8001, which provides ~~drug and alcohol abuse~~substance use disorder treatment.

**Sec. A-60. 20-A MRSA §15672, sub-§30-A, ¶D**, as amended by PL 2005, c. 662, Pt. A, §41, is further amended to read:

D. Special education costs that are the costs of educational services provided to students who are temporarily unable to participate in regular school programs. Students who may be included are pregnant students, hospitalized students or those confined to their homes for illness or injury, students involved in substance ~~abuse~~use disorder programs within hospital settings or in residential rehabilitation facilities licensed by the Department of Health and Human Services, ~~Office of Alcoholism and Drug Abuse Prevention~~ for less than 6 weeks duration or students suffering from other temporary conditions that prohibit their attendance at school. Students served under this paragraph may not be counted as children with disabilities for federal reporting purposes.

**Sec. A-61. 22 MRSA §328, sub-§12**, as enacted by PL 2001, c. 664, §2, is amended to read:

**12. Health services.** "Health services" means clinically related services that are diagnostic, treatment, rehabilitative services or nursing services provided by a nursing facility. "Health services" includes alcohol ~~abuse~~or drug abusedependence, substance use disorder and mental health services.

**Sec. A-62. 22 MRSA §412, sub-§2**, as amended by PL 2011, c. 306, §2, is further amended to read:

**2. Healthy Maine Partnerships.** Healthy Maine Partnerships is established to provide appropriate essential public health services at the local level, including coordinated community-based public health promotion, active community engagement in local, district and state public health priorities and standardized community-based health assessment, that inform and link to districtwide and statewide public health system activities.

Healthy Maine Partnerships must include interested community members; leaders of formal and informal civic groups; leaders of youth, parent and older adult groups; leaders of hospitals, health centers, mental health and substance ~~abuse~~ substance disorder treatment providers; emergency responders; local government officials; leaders in early childhood development and education; leaders of school administrative units and colleges and universities; community, social service and other nonprofit agency leaders; leaders of issue-specific networks, coalitions and associations; business leaders; leaders of faith-based groups; and law enforcement representatives. Where a service area of Healthy Maine Partnerships includes a tribal health department or health clinic, Healthy Maine Partnerships shall seek a membership or consultative relationship with leaders and members of Indian tribes or designees of health departments or health clinics of Indian tribes.

The department and other appropriate state agencies shall provide funds as available to coalitions in Healthy Maine Partnerships that meet measurable criteria as set by the department for comprehensive community health coalitions. As funds are available, a minimum of one tribal comprehensive community health coalition must be provided funding as a member of a Healthy Maine Partnerships coalition. The tribal district is eligible for the same funding opportunities offered to any other district. The tribal district or a tribe is eligible to partner with any coalition in Healthy Maine Partnerships for collaborative funding opportunities that are approved by the tribal district coordinating council or a tribal health director.

**Sec. A-63. 22 MRSA §412, sub-§4, ¶B,** as amended by PL 2011, c. 306, §2, is further amended to read:

B. The Maine Center for Disease Control and Prevention, in consultation with Healthy Maine Partnerships, shall ensure the invitation of persons to participate on a district coordinating council for public health and shall strive to include persons who represent the Maine Center for Disease Control and Prevention, county governments, municipal governments, Indian tribes and their 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 abuse~~ substance disorder services, organizations seeking to improve environmental health and other community-based organizations.

**Sec. A-64. 22 MRSA §412, sub-§6, ¶B,** as amended by PL 2011, c. 306, §2, is further amended to read:

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

**Sec. A-65. 22 MRSA §567, sub-§1**, as amended by PL 2009, c. 447, §21, is further amended to read:

**1. Acceptable data.** Except as provided in this subsection, 6 months after the adoption of rules specified in subsection 2, certification is required of any commercial, industrial, municipal, state or federal laboratory that analyzes water, soil, air, solid or hazardous waste, or radiological samples for the use of programs of the department or the Department of Environmental Protection, except as provided under chapter 411, the Maine Medical Laboratory Act; Title 26, chapter 7, subchapter 3-A, Substance Abuse Use Testing; and Title 29-A, section 2524, administration of tests to determine an alcohol level or drug concentration.

A laboratory operated by a waste discharge facility licensed pursuant to Title 38, section 413 may analyze waste discharges for total suspended solids, settleable solids, biological or biochemical oxygen demand, chemical oxygen demand, pH, chlorine residual, fecal coliform, E. coli, conductivity, color, temperature and dissolved oxygen without being certified under this section. The exception provided under this paragraph applies to a laboratory testing its own samples for pollutants listed in its permit or license; pretreatment samples; and samples from other wastewater treatment plants for up to 60 days per year.

The time period provided in this paragraph, which is a maximum period for each treatment plant for which analysis is provided, may be extended by memorandum of agreement between the Department of Environmental Protection and the Health and Environmental Testing Laboratory.

**Sec. A-66. 22 MRSA §1341, sub-§2, ¶C**, as amended by PL 2015, c. 507, §1, is further amended to read:

C. ~~Drug abuse~~Substance use disorder prevention and treatment education;

**Sec. A-67. 22 MRSA §1502**, as enacted by PL 1995, c. 694, Pt. C, §8 and affected by Pt. E, §2, is amended to read:

### **§ 1502.Consent**

In addition to the ability to consent to treatment for health services as provided in sections 1823 and 1908 and Title 32, sections 2595, 3292, 3817, 6221 and 7004, a minor may consent to treatment for ~~abuse of alcohol or drugs~~substance use disorder or for emotional or psychological problems.

**Sec. A-68. 22 MRSA §1511, sub-§6, ¶G**, as enacted by PL 1999, c. 401, Pt. V, §1, is amended to read:

G. Substance ~~abuse~~use disorder prevention and treatment; and

**Sec. A-69. 22 MRSA §1711-C, sub-§3, ¶D**, as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7 and c. 790, Pt. A, §§58 and 60, is further amended to read:

D. The specific purpose or purposes of the disclosure and whether any subsequent disclosures may be made pursuant to the same authorization. An authorization to disclose health care information related to substance ~~abuse~~use disorder treatment or care subject to the requirements of 42 United States Code, Section 290dd-2 (Supplement 1998) is governed by the provisions of that law;

**Sec. A-70. 22 MRSA §1823**, as amended by PL 1999, c. 90, §2, is further amended to read:

### **§ 1823.Treatment of minors**

Any hospital licensed under this chapter or alcohol or drug treatment facility licensed pursuant to section 7801 that provides facilities to a minor in connection with the treatment of that minor for venereal disease or ~~abuse of drugs or alcohol~~substance use or for the collection of sexual assault evidence through a sexual assault forensic examination is under no obligation to obtain the consent of that minor's parent or guardian or to inform that parent or guardian of the provision of such facilities so long as such facilities have been provided at the direction of the person or persons referred to in Title 32, sections 2595, 3292, 3817, 6221 or 7004. The hospital shall notify and obtain the consent of that minor's parent or guardian if that hospitalization continues for more than 16 hours.

**Sec. A-71. 22 MRSA §2053, sub-§2-A**, as amended by PL 2011, c. 542, Pt. A, §30, is further amended to read:

**2-A. Community health or social service facility.** "Community health or social service facility" means a community-based facility that provides medical or medically related diagnostic or therapeutic services, mental health services, services for persons with intellectual disabilities or autism, substance ~~abuse~~use disorder services or family counseling and domestic abuse intervention services and is licensed by the State.

**Sec. A-72. 22 MRSA §2383-C, sub-§6,** as enacted by PL 1997, c. 325, §1, is amended to read:

**6. Additional orders.** In addition to the civil forfeitures required by subsection 5, the judge may order the person to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution or to undergo evaluation, education or treatment with a licensed social worker or a licensed substance ~~abuse~~use disorder counselor. If the judge orders the person to perform specified work or to undergo evaluation, education or treatment, the judge may suspend a forfeiture imposed pursuant to subsection 5.

**Sec. A-73. 22 MRSA §3173-C, sub-§7, ¶P,** as amended by PL 2003, c. 20, Pt. K, §7, is further amended to read:

P. Substance ~~abuse~~use disorder services, \$2;

**Sec. A-74. 22 MRSA §3173-D,** as enacted by PL 1983, c. 752, §1, is amended to read:

### **§ 3173-D.Reimbursement for substance use disorder treatment**

The department shall provide reimbursement, to the maximum extent allowable, under the United States Social Security Act, Title XIX, for ~~alcoholism and drug dependencysubstance use disorder~~ treatment. Treatment ~~shall~~must include, but need not be limited to, residential treatment and outpatient care as defined in Title 24-A, section 2842.

**Sec. A-75. 22 MRSA §3174-VV, last ¶,** as reallocated by RR 2011, c. 2, §27, is amended to read:

The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Prior to adopting rules under this section, the department shall seek input from stakeholders and experts in the field of substance ~~abuse-addiction and recovery~~use disorder, including, but not limited to, representatives of the ~~Office of Substance Abuse~~department's office of substance use and mental health services and individuals with expertise in medication-assisted treatment.

**Sec. A-76. 22 MRSA §3739, sub-§2, ¶G,** as amended by PL 2011, c. 657, Pt. AA, §63, is further amended to read:

G. One employee of the organizational unit of the department that provides programs and services for substance ~~abuse~~use disorder prevention and treatment, appointed by the commissioner;

**Sec. A-77. 22 MRSA §3762, sub-§20, ¶¶C to E,** as reallocated by RR 2011, c. 1, §33, are amended to read:

C. The results of the 2nd drug test must be available prior to the fair hearing, if practicable. The person shall cooperate in a timely manner in submitting to the 2nd drug test. If the 2nd drug test confirms that the person is using an illegal drug, the person may avoid termination of TANF assistance by enrolling in a substance ~~abuse~~use disorder treatment program appropriate to the type of illegal drug being used by that person.

D. If the department determines that, for good cause, a person is unable to enroll in a substance ~~abuse~~use disorder program as required by paragraph C, the person remains eligible for TANF assistance until such time that the department determines that the person is able to enroll in a substance ~~abuse~~use disorder treatment program.

E. The department shall terminate TANF assistance to a person who fails to request a fair hearing and submit to a 2nd drug test as described in paragraph B or who fails to participate in a substance ~~abuse~~use disorder treatment program as required pursuant to paragraph C or D.

**Sec. A-78. 22 MRSA §3788, sub-§11, ¶C**, as amended by PL 1997, c. 530, Pt. A, §26, is further amended to read:

C. Subject to the requirements of the Americans with Disabilities Act, if a recipient of TANF is hindered from obtaining employment or successfully completing any portion of the ASPIRE-TANF program by reason of ~~drug or alcohol abuse~~substance use, the recipient must enter into a ~~drug or alcohol abuse~~substance use disorder treatment program. This treatment activity may occur at any time during the ASPIRE-TANF program.

**Sec. A-79. 22 MRSA §3788, sub-§12, ¶C**, as amended by PL 1997, c. 530, Pt. A, §26, is further amended to read:

C. All agencies that receive funds from any state agency for the treatment of ~~drug or alcohol abuse~~substance use disorder must require that recipients of TANF be given priority for those services.

**Sec. A-80. 22 MRSA §4004-B**, as amended by PL 2013, c. 192, §2, is further amended to read:

**§ 4004-B. Infants born affected by substance use disorder or after prenatal exposure to drugs or with fetal alcohol spectrum disorders**

The department shall act to protect infants born identified as being affected by illegal substance ~~abuse~~use, demonstrating withdrawal symptoms resulting from prenatal drug exposure, whether the prenatal exposure was to legal or illegal drugs, or having fetal alcohol spectrum disorders, regardless of whether the infant is abused or neglected. The department shall:

**1. Receive notifications.** Receive notifications of infants who may be affected by illegal substance ~~abuse~~use or demonstrating withdrawal symptoms resulting from prenatal drug exposure or who have fetal alcohol spectrum disorders;



**2. Investigate.** Promptly investigate notifications received of infants born who may be affected by illegal substance ~~abuse~~ or demonstrating withdrawal symptoms resulting from prenatal drug exposure or who have fetal alcohol spectrum disorders as determined to be necessary by the department to protect the infant;

**3. Determine if infant is affected.** Determine whether each infant for whom the department conducts an investigation is affected by illegal substance ~~abuse~~, demonstrates withdrawal symptoms resulting from prenatal drug exposure or has fetal alcohol spectrum disorders;

**4. Determine if infant is abused or neglected.** Determine whether the infant for whom the department conducts an investigation is abused or neglected and, if so, determine the degree of harm or threatened harm in each case;

**5. Develop plan for safe care.** For each infant whom the department determines to be affected by illegal substance ~~abuse~~, to be demonstrating withdrawal symptoms resulting from prenatal drug exposure or to have fetal alcohol spectrum disorders, develop, with the assistance of any health care provider involved in the mother's or the child's medical or mental health care, a plan for the safe care of the infant and, in appropriate cases, refer the child or mother or both to a social service agency or voluntary substance ~~abuse~~ disorder prevention service; and

**6. Comply with section 4004.** For each infant whom the department determines to be abused or neglected, comply with section 4004, subsection 2, paragraphs E and F.

**Sec. A-81. 22 MRSA §4011-B, sub-§1**, as amended by PL 2013, c. 192, §3, is further amended to read:

**1. Notification of prenatal exposure to drugs or having fetal alcohol spectrum disorders.** A health care provider involved in the delivery or care of an infant who the provider knows or has reasonable cause to suspect has been born affected by illegal substance ~~abuse~~, is demonstrating withdrawal symptoms that require medical monitoring or care beyond standard newborn care when those symptoms have resulted from or have likely resulted from prenatal drug exposure, whether the prenatal exposure was to legal or illegal drugs, or has fetal alcohol spectrum disorders shall notify the department of that condition in the infant. The notification required by this subsection must be made in the same manner as reports of abuse or neglect required by this subchapter.

A. This section, and any notification made pursuant to this section, may not be construed to establish a definition of "abuse" or "neglect."

B. This section, and any notification made pursuant to this section, may not be construed to require prosecution for any illegal action, including, but not limited to, the act of exposing a fetus to drugs or other substances.

**Sec. A-82. 22 MRSA §4055, sub-§1-A, ¶C**, as amended by PL 1997, c. 475, §9, is further amended to read:

C. The child has been placed in the legal custody or care of the department, the parent has a chronic substance ~~abuse~~ problemuse disorder, and the parent's prognosis indicates that the child will not be able to return to the custody of the parent within a reasonable period of time, considering the child's age and the need for a permanent home. The fact that a parent has been unable to provide safe care of a child for a period of 9 months due to substance ~~abuse~~ constitutes a chronic substance ~~abuse~~ problemuse disorder;

**Sec. A-83. 22 MRSA §4099-E, sub-§§1 and 3**, as enacted by PL 2009, c. 155, §2, are amended to read:

**1. Street and community outreach and drop-in programs.** Youth drop-in centers to provide walk-in access to crisis intervention and ongoing supportive services, including one-to-one case management services on a self-referral basis and street and community outreach programs to locate, contact and provide information, referrals and services to homeless youth, youth at risk of homelessness and runaways. Information, referrals and services provided may include, but are not limited to family reunification services; conflict resolution or mediation counseling; assistance in obtaining temporary emergency shelter; case management aimed at obtaining food, clothing, medical care or mental health counseling; counseling regarding violence, prostitution, substance ~~abuse~~ disorder, sexually transmitted diseases, HIV and pregnancy; referrals to other agencies that provide support services to homeless youth, youth at risk of homelessness and runaways; assistance with education, employment and independent living skills; aftercare services; and specialized services for highly vulnerable runaways and homeless youth, including teen parents, sexually exploited youth and youth with mental illness or developmental disabilities;

**3. Transitional living programs.** Transitional living programs to help homeless youth find and maintain safe, dignified housing. The program may also provide rental assistance and related supportive services or may refer youth to other organizations or agencies that provide such services. Services provided may include, but are not limited to, provision of safe, dignified housing; educational assessment and referrals to educational programs; career planning, employment, job skills training and independent living skills training; job placement; budgeting and money management; assistance in securing housing appropriate to needs and income; counseling regarding violence, prostitution, substance ~~abuse~~ disorder, sexually transmitted diseases and pregnancy; referral for medical services or chemical dependency treatment; parenting skills; self-sufficiency support services or life skills training; and aftercare and follow-up services.

**Sec. A-84. 22 MRSA §7245**, as enacted by PL 2003, c. 483, §1, is amended to read:

### **§ 7245. Legislative intent**

It is the intent of the Legislature that the prescription monitoring program established pursuant to this chapter serve as a means to promote the public health and welfare and to detect and prevent substance ~~abuse~~ disorder. This chapter is not intended to interfere with the legitimate medical use of controlled substances.

**Sec. A-85. 22 MRSA §7261, sub-§1, ¶D**, as enacted by PL 2011, c. 217, §1, is amended to read:

D. Other uses of prescription drug data authorized by state law for purposes of curtailing ~~drug~~ abuse illegal substance use and diversion; and

**Sec. A-86. 22-A MRSA §201, sub-§2-A, ¶C**, as enacted by PL 2007, c. 539, Pt. N, §42, is amended to read:

C. Integrated services responsibilities, including but not limited to:

(1) Adult and elder services, including but not limited to aging, substance ~~abuse~~ abuse disorder, mental health and disability services;

(2) Child and family services responsibilities, including but not limited to child welfare, children's behavioral health and early childhood services; and

(3) Regional operations.

**Sec. A-87. 22-A MRSA §203, sub-§1, ¶F**, as enacted by PL 2003, c. 689, Pt. A, §1, is amended to read:

F. Substance ~~abuse~~ abuse disorder prevention and treatment services.

**Sec. A-88. 22-A MRSA §206, sub-§8**, as enacted by PL 2007, c. 539, Pt. N, §45, is amended to read:

**8. Substance use disorder prevention and treatment.** The commissioner shall administer and carry out the purposes of the Maine Substance ~~Abuse~~ Use Disorder Prevention and Treatment Act.

**Sec. A-89. 22-A MRSA §207, sub-§7**, as amended by PL 2011, c. 542, Pt. A, §52, is further amended to read:

**7. Contracts with health care servicing entities.** The commissioner may enter into contracts with health care servicing entities for the financing, management and oversight of the delivery of mental health, adult developmental and substance ~~abuse~~ abuse disorder services to clients pursuant to a state or federally sponsored health program in which the department participates or that the department administers. For the purposes of this subsection, "health care servicing entity" means a partnership, association, corporation, limited liability company or other legal entity that enters into a contract with the State to provide or arrange for the provision of a defined set of health care services; to assume responsibility for some aspects of quality assurance, utilization review, provider credentialing and provider relations or other related network management functions; and to assume financial risk for provision of such services to clients through capitation reimbursement or other risk-sharing arrangements. "Health care servicing entity" does not include insurers or health maintenance organizations. In contracting with health care servicing entities, the commissioner:

A. Shall include in all contracts with the health care servicing entities standards, developed in consultation with the Superintendent of Insurance, to be met by the contracting entity in the areas of financial solvency, quality assurance, utilization review, network sufficiency, access to services, network performance, complaint and grievance procedures and records maintenance;

B. Prior to contracting with any health care servicing entity, must have in place a memorandum of understanding with the Superintendent of Insurance for the provision of technical assistance, which must provide for the sharing of information between the department and the superintendent and the analysis of that information by the superintendent as it relates to the fiscal integrity of the contracting entity;

C. May require periodic reporting by the health care servicing entity as to activities and operations of the entity, including the entity's activities undertaken pursuant to commercial contracts with licensed insurers and health maintenance organizations;

D. May share with the Superintendent of Insurance all documents filed by the health care servicing entity, including documents subject to confidential treatment if the information is treated with the same degree of confidentiality as is required of the department; and

E. May make all necessary rules for the administration of contracts with health care servicing entities. All rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-90. 24 MRSA §2325-A, sub-§5-C, ¶A-1**, as enacted by PL 2003, c. 20, Pt. VV, §5 and affected by §25, is amended to read:

A-1. All group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following categories of mental illness as defined in the Diagnostic and Statistical Manual, except for those that are designated as "V" codes by the Diagnostic and Statistical Manual:

- (1) Psychotic disorders, including schizophrenia;
- (2) Dissociative disorders;
- (3) Mood disorders;
- (4) Anxiety disorders;
- (5) Personality disorders;
- (6) Paraphilias;

- (7) Attention deficit and disruptive behavior disorders;
- (8) Pervasive developmental disorders;
- (9) Tic disorders;
- (10) Eating disorders, including bulimia and anorexia; and
- (11) Substance ~~abuse-related~~use disorders.

For the purposes of this paragraph, the mental illness must be diagnosed by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness.

**Sec. A-91. 24 MRSA §2329, sub-§2, ¶C**, as amended by PL 1987, c. 735, §41, is further amended to read:

C. "Treatment plan" means a written plan initiated at the time of admission, approved by a Doctor of Medicine, Doctor of Osteopathy or a Licensed Substance ~~Abuse~~Use Disorder Counselor employed by a certified or licensed substance ~~abuse~~use disorder program, including, but not limited to, the patient's medical, ~~drug and alcoholism~~substance use history; record of physical examination; diagnosis; assessment of physical capabilities; mental capacity; orders for medication, diet and special needs for the patient's health or safety and treatment, including medical, psychiatric, psychological, social services, individual, family and group counseling; and educational, support and referral services.

**Sec. A-92. 24 MRSA §2329, sub-§8**, as amended by PL 2011, c. 320, Pt. A, §2, is further amended to read:

**8. Confidentiality.** Alcoholism and drug dependency treatment patient records are confidential.

**Sec. A-93. 24-A MRSA §2842, sub-§2, ¶C**, as enacted by PL 1983, c. 527, §2, is further amended to read:

C. "Treatment plan" means a written plan initiated at the time of admission, approved by a Doctor of Medicine, Doctor of Osteopathy or a Registered Substance ~~Abuse~~Use Disorder Counselor employed by a certified or licensed substance ~~abuse~~use disorder program, including, but not limited to, the patient's medical, ~~drug and alcoholism~~substance use history; record of physical examination; diagnosis; assessment of physical capabilities; mental capacity; orders for medication, diet and special needs for the patient's health or safety and treatment, including medical, psychiatric, psychological, social services, individual, family and group counseling; and educational, support and referral services.

**Sec. A-94. 24-A MRSA §2842, sub-§8**, as amended by PL 2011, c. 320, Pt. A, §10, is further amended to read:

**8. Confidentiality.** Alcoholism and drug dependency treatment patient records are confidential.

**Sec. A-95. 24-A MRSA §2843, sub-§5-C, ¶A-1**, as enacted by PL 2003, c. 20, Pt. VV, §14 and affected by §25, is amended to read:

A-1. All group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following categories of mental illness as defined in the Diagnostic and Statistical Manual, except for those that are designated as "V" codes by the Diagnostic and Statistical Manual:

- (1) Psychotic disorders, including schizophrenia;
- (2) Dissociative disorders;
- (3) Mood disorders;
- (4) Anxiety disorders;
- (5) Personality disorders;
- (6) Paraphilias;
- (7) Attention deficit and disruptive behavior disorders;
- (8) Pervasive developmental disorders;
- (9) Tic disorders;
- (10) Eating disorders, including bulimia and anorexia; and
- (11) Substance ~~abuse-related~~use disorders.

For the purposes of this paragraph, the mental illness must be diagnosed by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness.

**Sec. A-96. 24-A MRSA §4234-A, sub-§6, ¶A-1**, as enacted by PL 2003, c. 20, Pt. VV, §20 and affected by §25, is amended to read:

A-1. All group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following categories of mental illness as defined in the Diagnostic and Statistical Manual, except for those designated as "V" codes in the Diagnostic and Statistical Manual:

- (1) Psychotic disorders, including schizophrenia;
- (2) Dissociative disorders;
- (3) Mood disorders;
- (4) Anxiety disorders;
- (5) Personality disorders;
- (6) Paraphilias;
- (7) Attention deficit and disruptive behavior disorders;
- (8) Pervasive developmental disorders;
- (9) Tic disorders;
- (10) Eating disorders, including bulimia and anorexia; and
- (11) Substance ~~abuse-related~~use disorders.

For the purposes of this paragraph, the mental illness must be diagnosed by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness.

**Sec. A-97. 24-A MRSA §6917, sub-§3, ¶B**, as enacted by PL 2009, c. 359, §4 and affected by §8, is amended to read:

B. "Health and medical services" includes, but is not limited to, any services included in the furnishing of medical care, dental care to the extent covered under a medical insurance policy, pharmaceutical benefits or hospitalization, including but not limited to services provided in a hospital or other medical facility; ancillary services, including but not limited to ambulatory services; physician and other practitioner services, including but not limited to services provided by a physician's assistant, nurse practitioner or midwife; and behavioral health services, including but not limited to mental health and substance ~~abuse~~use disorder services.

**Sec. A-98. 25 MRSA §2002, sub-§§3 and 4**, as amended by PL 1993, c. 524, §1, are further amended to read:

**3. Drug user.** "Drug ~~abuser~~user" has the same meaning as set forth in Title 5, section 20003, subsection 10.

**4. Person with substance use disorder.** "~~Drug addict~~Person with substance use disorder" has the same meaning as set forth in Title 5, section 20003, subsection ~~11~~17-A.

**Sec. A-99. 25 MRSA §2003, sub-§1, ¶D**, as amended by PL 2011, c. 298, §7, is further amended to read:

D. Submits an application that contains the following:

(1) Full name;

(2) Full current address and addresses for the prior 5 years;

(3) The date and place of birth, height, weight, color of eyes, color of hair, sex and race;

(4) A record of previous issuances of, refusals to issue and revocations of a permit to carry concealed firearms, handguns or other concealed weapons by any issuing authority in the State or any other jurisdiction. The record of previous refusals alone does not constitute cause for refusal and the record of previous revocations alone constitutes cause for refusal only as provided in section 2005; and

(5) Answers to the following questions:

(a) Are you less than 18 years of age?

(b) Is there a formal charging instrument now pending against you in this State for a crime under the laws of this State that is punishable by imprisonment for a term of one year or more?



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(c) Is there a formal charging instrument now pending against you in any federal court for a crime under the laws of the United States that is punishable by imprisonment for a term exceeding one year?

(d) Is there a formal charging instrument now pending against you in another state for a crime that, under the laws of that state, is punishable by a term of imprisonment exceeding one year?

(e) If your answer to the question in division (d) is "yes," is that charged crime classified under the laws of that state as a misdemeanor punishable by a term of imprisonment of 2 years or less?

(f) Is there a formal charging instrument pending against you in another state for a crime punishable in that state by a term of imprisonment of 2 years or less and classified by that state as a misdemeanor, but that is substantially similar to a crime that under the laws of this State is punishable by imprisonment for a term of one year or more?

(g) Is there a formal charging instrument now pending against you under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation in a proceeding in which the prosecuting authority has pleaded that you committed the crime with the use of a firearm against a person or with the use of a dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A?

(h) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that, if committed by an adult, would be a crime described in division (b), (c), (d) or (f) and involves bodily injury or threatened bodily injury against another person?

(i) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that, if committed by an adult, would be a crime described in division (g)?

(j) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that, if committed by an adult, would be a crime described in division (b), (c), (d) or (f), but does not involve bodily injury or threatened bodily injury against another person?

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(k) Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (b), (c), (f) or (g)?

(l) Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (d)?

(m) If your answer to the question in division (l) is "yes," was that crime classified under the laws of that state as a misdemeanor punishable by a term of imprisonment of 2 years or less?

(n) Have you ever been adjudicated as having committed a juvenile offense described in division (h) or (i)?

(o) Have you ever been adjudicated as having committed a juvenile offense described in division (j)?

(p) Are you currently subject to an order of a Maine court or an order of a court of the United States or another state, territory, commonwealth or tribe that restrains you from harassing, stalking or threatening your intimate partner, as defined in 18 United States Code, Section 921(a), or a child of your intimate partner, or from engaging in other conduct that would place your intimate partner in reasonable fear of bodily injury to that intimate partner or the child?

(q) Are you a fugitive from justice?

(r) Are you a drug ~~abuser~~user, ~~drug-addict~~person with substance use disorder or ~~drug dependent~~drug-dependent person?

(s) Do you have a mental disorder that causes you to be potentially dangerous to yourself or others?

(t) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, Article 5, Parts 3 and 4 and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?

(u) Have you been dishonorably discharged from the military forces within the past 5 years?

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(v) Are you an illegal alien?

(w) Have you been convicted in a Maine court of a violation of Title 17-A, section 1057 within the past 5 years?

(x) Have you been adjudicated in a Maine court within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would be a violation of Title 17-A, section 1057?

(y) To your knowledge, have you been the subject of an investigation by any law enforcement agency within the past 5 years regarding the alleged abuse by you of family or household members?

(z) Have you been convicted in any jurisdiction within the past 5 years of 3 or more crimes punishable by a term of imprisonment of less than one year or of crimes classified under the laws of a state as a misdemeanor and punishable by a term of imprisonment of 2 years or less?

(aa) Have you been adjudicated in any jurisdiction within the past 5 years to have committed 3 or more juvenile offenses described in division (o)?

(bb) To your knowledge, have you engaged within the past 5 years in reckless or negligent conduct that has been the subject of an investigation by a governmental entity?

(cc) Have you been convicted in a Maine court within the past 5 years of any Title 17-A, chapter 45 drug crime?

(dd) Have you been adjudicated in a Maine court within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would have been a violation of Title 17-A, chapter 45?

(ee) Have you been adjudged in a Maine court to have committed the civil violation of possession of a useable amount of marijuana, butyl nitrite or isobutyl nitrite in violation of Title 22, section 2383 within the past 5 years?

(ff) Have you been adjudicated in a Maine court within the past 5 years as having committed the juvenile crime defined in Title 15, section 3103, subsection 1, paragraph B of possession of a useable amount of marijuana, as provided in Title 22, section 2383?; and

**Sec. A-100. 25 MRSA §2005, sub-§3**, as amended by PL 1989, c. 917, §15 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**3. Reapplication.** If a permit has been revoked solely under subsection 1, paragraph D, the former permit holder may reapply upon successful completion of a substance ~~abuse~~use disorder treatment program approved by the Department of Health and Human Services as appropriate for the permit holder's problem or condition. Except as specified in this subsection, ~~no~~a person, otherwise eligible, who has had a permit revoked, is not eligible for reapplication until the expiration of 5 years from the date of revocation.

**Sec. A-101. 25 MRSA §5101**, as enacted by PL 2015, c. 481, Pt. E, §1, is amended to read:

## **§ 5101. Substance Use Disorder Assistance Program**

**1. Substance Use Disorder Assistance Program.** The Substance ~~Abuse~~Use Disorder Assistance Program, referred to in this chapter as "the program," is established to support persons with presumed substance use ~~disorders~~disorder by providing grants to municipalities and counties to carry out projects designed to reduce substance ~~abuse~~use, substance ~~abuse-related~~use-related crimes and recidivism.

**2. Eligibility; program targets; projects.** Grants may be awarded to:

A. Municipal or county governments or regional jails for projects designed to assist persons with presumed substance use ~~disorders~~disorder by diverting alleged low-level offenders into community-based treatment and support services. Projects may include, but are not limited to:

(1) Referral of program participants to evidence-based treatment programs, including medically assisted treatment; and

(2) Provision of case management services to program participants in order to secure appropriate treatment and support services such as housing, health care, job training and mental health services for program participants; and

B. County governments or regional jails for projects in county or regional jails designed to assist persons with presumed substance use ~~disorders~~disorder. Projects may include, but are not limited to:

(1) Provision of evidence-based treatment programs, including medically assisted treatment, to jail inmates; and

(2) Provision of case management or other support services to program participants to assist in transition from jail upon release.

**3. Requirements.** A grant application for a project described in subsection 2 must include the following:

- A. A statement of purpose and measurable goals for the project and use for the funds;
- B. The elements of the project, which must include the targeted population, the nature of services or assistance to be provided and expected outcomes;
- C. For diversion projects, a statement of the municipality's or county's diversion policy, including criteria for selecting participants for the project;
- D. A review of other substance abuse services available in the applicant municipality or county and communities adjacent to the applicant municipality or county and a statement of the unmet needs to be addressed by the project;
- E. A review of efforts to collaborate among relevant law enforcement agencies, treatment providers, harm reduction services, recovery support services and other community resources and a summary of collaborative approaches included in the project, if any; and
- F. A summary of data to be collected to assess the effectiveness of the project and the methodology that will be used to make that assessment. The data to be collected must include measurements of the long-term health, treatment and criminal justice involvement outcomes for participants and must be included in reports filed under subsection 6 as part of a rigorous evaluation process.

**4. Selection of grant recipients; steering committee.** The Commissioner of Public Safety shall review applications submitted by municipalities and counties for grants under this chapter. Preference must be given to collaborative approaches that include treatment providers or community-based organizations. The following steering committee shall advise the Commissioner of Public Safety in selecting grant recipients. The steering committee consists of the Commissioner of Corrections or the commissioner's designee and representatives of the following organizations, programs and associations selected by the Commissioner of Public Safety from suggestions provided by the organizations, programs and associations: a statewide organization of police chiefs; a statewide organization of sheriffs; a statewide organization representing physicians; a statewide organization representing prosecutors; a statewide organization representing providers of legal services for the indigent; peer recovery programs; and harm reduction associations.

**5. Administration of funds.** The policy board established in this State to carry out the State's responsibilities under the federal Justice Assistance Act of 1984, the federal Anti-Drug Abuse Act of 1986, the federal Anti-Drug Abuse Act of 1988 and the federal Violent Crime Control and Law Enforcement Act of 1994, known as "the Justice Assistance Council," shall administer grant funds appropriated for use under this chapter and disburse the funds to municipalities, counties and regional jails selected under subsection 4. The department may retain up to 5% of funds to cover administrative expenses.

**6. Reports.** A recipient of a grant under subsection 4 shall report to the Commissioner of Public Safety annually on the anniversary date of the grant award regarding the status of the project for which the grant was awarded. The report must include a description of how the grant funds were spent, the results of the project and any recommendations for modification of the project, including any available information concerning the project's effectiveness in reducing substance ~~abuse~~use disorder and recidivism.

**Sec. A-102. 26 MRSA §681**, as amended by PL 2011, c. 196, §1, is further amended to read:

**§ 681. Purpose; applicability**

**1. Purpose.** This subchapter is intended to:

A. Protect the privacy rights of individual employees in the State from undue invasion by employers through the use of substance ~~abuse~~use tests while allowing the use of tests when the employer has a compelling reason to administer a test;

B. Ensure that, when substance ~~abuse~~use tests are used, proper test procedures are employed to protect the privacy rights of employees and applicants and to achieve reliable and accurate results;

C. Ensure that an employee with a substance ~~abuse problem~~use disorder receives an opportunity for rehabilitation and treatment of the disease and returns to work as quickly as possible; and

D. Eliminate drug use in the workplace.

**2. Employer discretion.** This subchapter does not require or encourage employers to conduct substance ~~abuse~~use testing of employees or applicants. An employer who chooses to conduct such testing is limited by this subchapter, but may establish policies ~~which~~that are supplemental to and not inconsistent with this subchapter.

**3. Collective bargaining agreements.** This subchapter does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees or applicants than is provided by this subchapter.

A labor organization with a collective bargaining agreement effective in the State may conduct a program of substance ~~abuse~~use testing of its members. The program may include testing of new members and periodic testing of all members. It may not include random testing of members. The program may be voluntary. The results may not be used to preclude referral to a job where testing is not required or to otherwise discipline a member. Sample collection and testing must be done in accordance with this subchapter. Approval of the Department of Labor is not required.

**4. Home rule authority preempted.** ~~No~~A municipality may not enact any ordinance under its home rule authority regulating an employer's use of substance ~~abuse~~use tests.

**5. Contracts for work out of State.** All employment contracts subject to the laws of this State ~~shall~~must include an agreement that this subchapter will apply to any employer who hires employees to work outside the State.

**6. Medical examinations.** This subchapter does not prevent an employer from requiring or performing medical examinations of employees or applicants or from conducting medical screenings to monitor exposure to toxic or other harmful substances in the workplace, ~~provided that as long as~~ as long as these examinations are not used to avoid the restrictions of this subchapter. ~~No such~~An examination under this subsection may not include the use of any substance ~~abuse~~use test except in compliance with this subchapter.

**7. Other discipline unaffected.** This subchapter does not prevent an employer from establishing rules related to the possession or use of substances ~~of abuse~~ by employees, including convictions for ~~drug-related~~substance-related offenses, and taking action based upon a violation of any of those rules, except when a substance ~~abuse~~use test is required, requested or suggested by the employer or used as the basis for any disciplinary action.

**8. Nuclear power plants; federal law.** The following limitations apply to the application of this subchapter.

A. This subchapter does not apply to nuclear electrical generating facilities and their employees, including independent contractors and employees of independent contractors who are working at nuclear electrical generating facilities.

C. This subchapter does not apply to any employer subject to a federally mandated ~~drug and alcohol~~substance use testing program, including, but not limited to, testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V, and its employees, including independent contractors and employees of independent contractors who are working for or at the facilities of an employer who is subject to such a federally mandated ~~drug and alcohol~~substance use testing program.

**Sec. A-103. 26 MRSA §682**, as amended by PL 2007, c. 695, Pt. B, §5, is further amended to read:

## **§ 682. Definitions**

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

**1. Applicant.** "Applicant" means any person seeking employment from an employer. The term "Applicant" includes any person using an employment agency's services.

**2. Employee.** "Employee" means a person who is permitted, required or directed by any employer to engage in any employment for consideration of direct gain or profit. A person separated from employment while receiving a mandated benefit, including but not limited to workers' compensation, unemployment compensation and family medical leave, is an employee for the period the person receives

the benefit and for a minimum of 30 days beyond the termination of the benefit. A person separated from employment while receiving a nonmandated benefit is an employee for a minimum of 30 days beyond the separation.

A. A full-time employee is an employee who customarily works 30 hours or more each week.

**3. Employer.** "Employer" means any person, partnership, corporation, association or other legal entity, public or private, that employs one or more employees. ~~The term "Employer"~~ also includes an employment agency.

**3-A. Medically disqualified.** "Medically disqualified" means that an employee is prohibited by a federal law or regulation, or any rules adopted by the State's Department of Public Safety that incorporate any federal laws or regulations related to substance ~~abuse~~use testing for motor carriers, from continuing in the employee's former employment position due to the result of a substance ~~abuse~~use test conducted under the federal law or regulation or the Department of Public Safety rule.

**4. Negative test result.** "Negative test result" means a test result that indicates that:

A. A substance ~~of abuse~~ is not present in the tested sample; or

B. A substance ~~of abuse~~ is present in the tested sample in a concentration below the cutoff level.

**5. Positive test result.** "Positive test result" means a test result that indicates the presence of a substance ~~of abuse~~ in the tested sample above the cutoff level of the test.

A. "Confirmed positive result" means a confirmation test result that indicates the presence of a substance ~~of abuse~~ above the cutoff level in the tested sample.

**6. Probable cause.** "Probable cause" means a reasonable ground for belief in the existence of facts that induce a person to believe that an employee may be under the influence of a substance ~~of abuse~~, provided that the existence of probable cause may not be based exclusively on any of the following:

A. Information received from an anonymous informant;

B. Any information tending to indicate that an employee may have possessed or used a substance ~~of abuse~~ off duty, except when the employee is observed possessing or ingesting any substance ~~of abuse~~ either while on the employer's premises or in the proximity of the employer's premises during or immediately before the employee's working hours; or

C. A single work-related accident.

**7. Substance use test.** "Substance ~~abuse~~use test" means any test procedure designed to take and analyze body fluids or materials from the body for the purpose of detecting the presence of substances ~~of abuse~~. ~~The term "Substance use test"~~ does not include tests designed to determine blood-alcohol concentration levels from a sample of an individual's breath.



A. "Screening test" means an initial substance ~~abuse~~use test performed through the use of immunoassay technology or a federally recognized substance ~~abuse~~use test, or a test technology of similar or greater accuracy and reliability approved by the Department of Health and Human Services under rules adopted under section 687, and that is used as a preliminary step in detecting the presence of substances ~~of abuse~~.

(1) A screening test of an applicant's urine or saliva may be performed at the point of collection through the use of a noninstrumented point of collection test device approved by the federal Food and Drug Administration. Section 683, subsection 5-A governs the use of such tests.

B. "Confirmation test" means a 2nd substance ~~abuse~~use test that is used to verify the presence of a substance ~~of abuse~~ indicated by an initial positive screening test result and is a federally recognized substance ~~abuse~~use test or is performed through the use of liquid or gas chromatography-mass spectrometry.

C. "Federally recognized substance ~~abuse~~use test" means any substance ~~abuse~~use test recognized by the federal Food and Drug Administration as accurate and reliable through the administration's clearance or approval process.

**8. Substance.** "Substance ~~of abuse~~" means any scheduled drug, alcohol or other drug, or any of their metabolites.

A. "Alcohol" has the same meaning as found in Title 28-A, section 2, subsection 2.

B. "Drug" has the same meaning as found in Title 32, section 13702-A, subsection 11.

C. "Scheduled drug" has the same meaning as found in Title 17-A, section 1101, subsection 11.

**Sec. A-104. 26 MRSA §683**, as amended by PL 2011, c. 657, Pt. AA, §72, is further amended to read:

### **§ 683. Testing procedures**

~~No~~An employer may not require, request or suggest that any employee or applicant submit to a substance ~~abuse~~use test except in compliance with this section. All actions taken under a substance ~~abuse~~use testing program ~~shall~~must comply with this subchapter, rules adopted under this subchapter and the employer's written policy approved under section 686.

**1. Employee assistance program required.** Before establishing any substance ~~abuse~~use testing program for employees, an employer with over 20 full-time employees must have a functioning employee assistance program.

A. The employer may meet this requirement by participating in a cooperative employee assistance program that serves the employees of more than one employer.

B. The employee assistance program must be certified by the Department of Health and Human Services under rules adopted pursuant to section 687. The rules must ensure that the employee assistance programs have the necessary personnel, facilities and procedures to meet minimum standards of professionalism and effectiveness in assisting employees.

**2. Written policy.** Before establishing any substance ~~abuse~~ testing program, an employer ~~must~~shall develop or, as required in section 684, subsection 3, paragraph C, ~~must~~ appoint an employee committee to develop a written policy in compliance with this subchapter providing for, at a minimum:

A. The procedure and consequences of an employee's voluntary admission of a substance ~~abuse~~ problem and any available assistance, including the availability and procedure of the employer's employee assistance program;

B. When substance ~~abuse~~ testing may occur. The written policy must describe:

(1) Which positions, if any, will be subject to testing, including any positions subject to random or arbitrary testing under section 684, subsection 3. For applicant testing and probable cause testing of employees, an employer may designate that all positions are subject to testing; and

(2) The procedure to be followed in selecting employees to be tested on a random or arbitrary basis under section 684, subsection 3;

C. The collection of samples.

(1) The collection of any sample for use in a substance ~~abuse~~ test must be conducted in a medical facility and supervised by a licensed physician or nurse. A medical facility includes a first aid station located at the work site.

(2) An employer may not require an employee or applicant to remove any clothing for the purpose of collecting a urine sample, except that:

(a) An employer may require that an employee or applicant leave any personal belongings other than clothing and any unnecessary coat, jacket or similar outer garments outside the collection area; or

(b) If it is the standard practice of an off-site medical facility to require the removal of clothing when collecting a urine sample for any purpose, the physician or nurse supervising the collection of the sample in that facility may require the employee or applicant to remove their clothing.

(3) ~~No~~An employee or applicant may not be required to provide a urine sample while being observed, directly or indirectly, by another individual.

(4) The employer may take additional actions necessary to ensure the integrity of a urine sample if the sample collector or testing laboratory determines that the sample may have been substituted, adulterated, diluted or otherwise tampered with in an attempt to influence test results. The Department of Health and Human Services shall adopt rules governing when those additional actions are justified and the scope of those actions. These rules may not permit the direct or indirect observation of the collection of a urine sample. If an employee or applicant is found to have twice substituted, adulterated, diluted or otherwise tampered with the employee's or applicant's urine sample, as determined under the rules adopted by the department, the employee or applicant is deemed to have refused to submit to a substance ~~abuse~~use test.

(5) If the employer proposes to use the type of screening test described in section 682, subsection 7, paragraph A, subparagraph (1), the employer's policy must include:

(a) Procedures to ensure the confidentiality of test results as required in section 685, subsection 3; and

(b) Procedures for training persons performing the test in the proper manner of collecting samples and reading results, maintaining a proper chain of custody and complying with other applicable provisions of this subchapter;

D. The storage of samples before testing sufficient to inhibit deterioration of the sample;

E. The chain of custody of samples sufficient to protect the sample from tampering and to verify the identity of each sample and test result;

F. The substances ~~of abuse~~ to be tested for;

G. The cutoff levels for both screening and confirmation tests at which the presence of a substance ~~of abuse~~ in a sample is considered a positive test result.

(1) Cutoff levels for confirmation tests for marijuana may not be lower than 15 nanograms of delta-9-tetrahydrocannabinol-9-carboxylic acid per milliliter for urine samples.

(2) The Department of Health and Human Services shall adopt rules under section 687 regulating screening and confirmation cutoff levels for other substances ~~of abuse~~, including those substances tested for in blood samples under subsection 5, paragraph B, to ensure that

levels are set within known tolerances of test methods and above mere trace amounts. An employer may request that the Department of Health and Human Services establish a cutoff level for any substance ~~of abuse~~ for which the department has not established a cutoff level.

(3) Notwithstanding subparagraphs (1) and (2), if the Department of Health and Human Services does not have established cutoff levels or procedures for any specific federally recognized substance ~~abuse~~ test, the minimum cutoff levels and procedures that apply are those set forth in the Federal Register, Volume 69, No. 71, sections 3.4 to 3.7 on pages 19697 and 19698;

H. The consequences of a confirmed positive substance ~~abuse~~ test result;

I. The consequences for refusal to submit to a substance ~~abuse~~ test;

J. Opportunities and procedures for rehabilitation following a confirmed positive result;

K. A procedure under which an employee or applicant who receives a confirmed positive result may appeal and contest the accuracy of that result. The policy must include a mechanism that provides an opportunity to appeal at no cost to the appellant; and

L. Any other matters required by rules adopted by the Department of Labor under section 687.

An employer ~~must~~shall consult with the employer's employees in the development of any portion of a substance ~~abuse~~ testing policy under this subsection that relates to the employees. The employer is not required to consult with the employees on those portions of a policy that relate only to applicants. The employer shall send a copy of the final written policy to the Department of Labor for review under section 686. The employer may not implement the policy until the Department of Labor approves the policy. The employer shall send a copy of any proposed change in an approved written policy to the Department of Labor for review under section 686. The employer may not implement the change until the Department of Labor approves the change.

**3. Copies to employees and applicants.** The employer shall provide each employee with a copy of the written policy approved by the Department of Labor under section 686 at least 30 days before any portion of the written policy applicable to employees takes effect. The employer shall provide each employee with a copy of any change in a written policy approved by the Department of Labor under section 686 at least 60 days before any portion of the change applicable to employees takes effect. The Department of Labor may waive the 60-day notice for the implementation of an amendment covering employees if the amendment was necessary to comply with the law or if, in the judgment of the department, the amendment promotes the purpose of the law and does not lessen the protection of an individual employee. If an employer intends to test an applicant, the employer shall provide the applicant with a copy of the written policy under subsection 2 before administering a substance ~~abuse~~ test to the applicant. The 30-day and 60-day notice periods provided for employees under this subsection do not apply to applicants.

**4. Consent forms prohibited.** An employer may not require, request or suggest that any employee or applicant sign or agree to any form or agreement that attempts to:

- A. Absolve the employer from any potential liability arising out of the imposition of the substance ~~abuse~~ test; or
- B. Waive an employee's or applicant's rights or eliminate or diminish an employer's obligations under this subchapter except as provided in subsection 4-A.

Any form or agreement prohibited by this subsection is void.

**4-A. Waivers for temporary employment.** An employment agency, as defined in section 611, may request a written waiver for a temporary placement from an individual already in its employ or on a roster of eligibility as long as the client company has an approved substance ~~abuse~~ testing policy and the individual has not been assigned work at the client company in the 30 days previous to the request. The waiver is only to allow a test that might not otherwise be allowed under this subchapter. The test must otherwise comply with the standards of this subchapter and the employment agency's approved policy regarding applicant testing. The agency may not take adverse action against the individual for refusal to sign a waiver.

**5. Right to obtain other samples.** At the request of the employee or applicant at the time the test sample is taken, the employer shall, at that time:

A. Segregate a portion of the sample for that person's own testing. Within 5 days after notice of the test result is given to the employee or applicant, the employee or applicant shall notify the employer of the testing laboratory selected by the employee or applicant. This laboratory must comply with the requirements of this section related to testing laboratories. When the employer receives notice of the employee or applicant's selection, the employer shall promptly send the segregated portion of the sample to the named testing laboratory, subject to the same chain of custody requirements applicable to testing of the employer's portion of the sample. The employee or applicant shall pay the costs of these tests. Payment for these tests may not be required earlier than when notice of the choice of laboratory is given to the employer; and

B. In the case of an employee, have a blood sample taken from the employee by a licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Health and Human Services to draw blood samples. The employer shall have this sample tested for the presence of alcohol or marijuana metabolites, if those substances are to be tested for under the employer's written policy. If the employee requests that a blood sample be taken as provided in this paragraph, the employer may not test any other sample from the employee for the presence of these substances.

(1) The Department of Health and Human Services may identify, by rules adopted under section 687, other substances ~~of abuse~~ for which an employee may request a blood sample be tested instead of a urine sample if the department determines that a sufficient correlation exists between the presence of the substance in an individual's blood and its effect upon the individual's performance.

(2) ~~No~~An employer may not require, request or suggest that any employee or applicant provide a blood sample for substance ~~abuse~~use testing purposes nor may any employer conduct a substance ~~abuse~~use test upon a blood sample except as provided in this paragraph.

(3) Applicants do not have the right to require the employer to test a blood sample as provided in this paragraph.

**5-A. Point of collection screening test.** Except as provided in this subsection, all provisions of this subchapter regulating screening tests apply to noninstrumented point of collection test devices described in section 682, subsection 7, paragraph A, subparagraph (1).

A. A noninstrumented point of collection test described in section 682, subsection 7, paragraph A, subparagraph (1) may be performed at the point of collection rather than in a laboratory. Subsections 6 and 7 and subsection 8, paragraphs A to C do not apply to such screening tests. Subsection 5 applies only to a sample that results in a positive test result.

B. Any sample that results in a negative test result must be destroyed. Any sample that results in a ~~positive~~positive test result must be sent to a qualified testing laboratory consistent with subsections 6 to 8 for confirmation testing.

C. A person who performs a point of collection screening test or a confirmation test may release the results of that test only as follows.

(1) For a point of collection screening test that results in a preliminary positive or negative test result, the person performing the test shall release the test result to the employee who is the subject of the test immediately.

(2) For a point of collection screening test that results in a preliminary positive test result, the person performing the test may not release the test result to the employer until after the result of the confirmation test has been determined.

(3) For a point of collection screening test that results in a preliminary negative test result, the person performing the test may not release the test result to the employer until after the result of a confirmation test would have been determined if one had been performed.

(4) For a confirmation test, the person performing the test shall release the result immediately to the employee who is the subject of the test and to the employer.

**6. Qualified testing laboratories required.** ~~No~~An employer may not perform any substance ~~abuse~~use test administered to any of that employer's employees. An employer may perform screening tests administered to applicants if the employer's testing facilities comply with the requirements for testing laboratories under this subsection. Except as provided in subsection 5-A, any substance ~~abuse~~use test administered under this subchapter must be performed in a qualified testing laboratory that complies with this subsection.

B. The laboratory must have written testing procedures and procedures to ensure a clear chain of custody.

C. The laboratory must demonstrate satisfactory performance in the proficiency testing program of the National Institute on Drug Abuse, the College of American Pathology or the American Association for Clinical Chemistry.

D. The laboratory must comply with rules adopted by the Department of Health and Human Services under section 687. These rules ~~shall~~must ensure that:

(1) The laboratory possesses all licenses or certifications that the department finds necessary or desirable to ensure reliable and accurate test results;

(2) The laboratory follows proper quality control procedures, including, but not limited to:

(a) The use of internal quality controls during each substance ~~abuse~~use test conducted under this subchapter, including the use of blind samples and samples of known concentrations ~~which~~that are used to check the performance and calibration of testing equipment;

(b) The internal review and certification process for test results, including the qualifications of the person who performs that function in the testing laboratory; and

(c) Security measures implemented by the testing laboratory; and

(3) Other necessary and proper actions are taken to ensure reliable and accurate test results.

**7. Testing procedure.** A testing laboratory shall perform a screening test on each sample submitted by the employer for only those substances ~~of abuse~~ that the employer requests to be identified. If a screening test result is negative, no further test may be conducted on that sample. If a screening test

result is positive, a confirmation test ~~shall~~must be performed on that sample. A testing laboratory shall retain all confirmed positive samples for one year in a manner that will inhibit deterioration of the samples and allow subsequent retesting. All other samples ~~shall~~must be disposed of immediately after testing.

**8. Laboratory report of test results.** This subsection governs the reporting of test results.

A. A laboratory report of test results ~~shall~~must, at a minimum, state:

(1) The name of the laboratory that performed the test or tests;

(2) Any confirmed positive results on any tested sample.

(a) Unless the employee or applicant consents, test results ~~shall~~may not be reported in numerical or quantitative form but ~~shall~~must state only that the test result was positive or negative. This division does not apply if the test or the test results become the subject of any grievance procedure, administrative proceeding or civil action.

(b) A testing laboratory and the employer ~~must~~shall ensure that an employee's unconfirmed positive screening test result cannot be determined by the employer in any manner, including, but not limited to, the method of billing the employer for the tests performed by the laboratory and the time within which results are provided to the employer. This division does not apply to test results for applicants;

(3) The sensitivity or cutoff level of the confirmation test; and

(4) Any available information concerning the margin of accuracy and precision of the test methods employed.

The report ~~shall~~may not disclose the presence or absence of evidence of any physical or mental condition or of any substance other than the specific substances ~~of abuse~~ that the employer requested to be identified. A testing laboratory shall retain records of confirmed positive results in a numerical or quantitative form for at least 2 years.

B. The employer shall promptly notify the employee or applicant tested of the test result. Upon request of an employee or applicant, the employer shall promptly provide a legible copy of the laboratory report to the employee or applicant. Within 3 working days after notice of a confirmed positive test result, the employee or applicant may submit information to the employer explaining or contesting the results.

C. The testing laboratory shall send test reports for samples segregated at an employee's or applicant's request under subsection 5, paragraph A, to both the employer and the employee or applicant tested.



D. Every employer whose policy is approved by the Department of Labor under section 686 shall annually send to the department a compilation of the results of all substance ~~abuse~~ tests administered by that employer in the previous calendar year. This report shall ~~must~~ provide separate categories for employees and applicants and shall ~~must~~ be presented in statistical form so that no person who was tested by that employer can be identified from the report. The report shall ~~must~~ include a separate category for any tests conducted on a random or arbitrary basis under section 684, subsection 3.

**9. Costs.** The employer shall pay the costs of all substance ~~abuse~~ tests ~~which that~~ the employer requires, requests or suggests that an employee or applicant submit. Except as provided in paragraph A, the employee or applicant shall pay the costs of any additional substance ~~abuse~~ tests.

Costs of a substance ~~abuse~~ test administered at the request of an employee under subsection 5, paragraph B, shall ~~must~~ be paid:

A. By the employer if the test results are negative for all substances ~~of abuse~~ tested for in the sample; and

B. By the employee if the test results in a confirmed positive result for any of the substances ~~of abuse~~ tested for in the sample.

**10. Limitation on use of tests.** An employer may administer substance ~~abuse~~ tests to employees or applicants only for the purpose of discovering the use of any substance ~~of abuse~~ likely to cause impairment of the user or the use of any scheduled drug. ~~No~~An employer may not have substance ~~abuse~~ tests administered to an employee or applicant for the purpose of discovering any other information.

**11. Rules.** The Department of Health and Human Services shall adopt any rules under section 687 regulating substance ~~abuse~~ testing procedures that it finds necessary or desirable to ensure accurate and reliable substance ~~abuse~~ testing and to protect the privacy rights of employees and applicants.

**Sec. A-105. 26 MRSA §684**, as amended by PL 2003, c. 547, §2, is further amended to read:

### **§ 684. Imposition of tests**

**1. Testing of applicants.** An employer may require, request or suggest that an applicant submit to a substance ~~abuse~~ test only if:

A. The applicant has been offered employment with the employer; or

B. The applicant has been offered a position on a roster of eligibility from which applicants will be selected for employment. The number of persons on this roster of eligibility may not exceed the number of applicants hired by that employer in the preceding 6 months.

The offer of employment or offer of a position on a roster of eligibility may be conditioned on the applicant receiving a negative test result.

**2. Probable cause testing of employees.** An employer may require, request or suggest that an employee submit to a substance ~~abuse~~use test if the employer has probable cause to test the employee.

A. The employee's immediate supervisor, other supervisory personnel, a licensed physician or nurse, or the employer's security personnel ~~shall~~must make the determination of probable cause.

B. The supervisor or other person must state, in writing, the facts upon which ~~this~~the determination made under paragraph A is based and provide a copy of the statement to the employee.

**3. Random or arbitrary testing of employees.** In addition to testing employees on a probable cause basis under subsection 2, an employer may require, request or suggest that an employee submit to a substance ~~abuse~~use test on a random or arbitrary basis if:

A. The employer and the employee have bargained for provisions in a collective bargaining agreement, either before or after the effective date of this subchapter, that provide for random or arbitrary testing of employees. A random or arbitrary testing program that would result from implementation of an employer's last best offer is not considered a provision bargained for in a collective bargaining agreement for purposes of this section;

B. The employee works in a position the nature of which would create an unreasonable threat to the health or safety of the public or the employee's coworkers if the employee were under the influence of a substance ~~of abuse~~. It is the intent of the Legislature that the requirements of this paragraph be narrowly construed; or

C. The employer has established a random or arbitrary testing program under this paragraph that applies to all employees, except as provided in subparagraph (4), regardless of position.

(1) An employer may establish a testing program under this paragraph only if the employer has 50 or more employees who are not covered by a collective bargaining agreement.

(2) The written policy required by section 683, subsection 2 with respect to a testing program under this paragraph must be developed by a committee of at least 10 of the employer's employees. The employer shall appoint members to the committee from a cross-section of employees who are eligible to be tested. The committee must include a medical professional who is trained in procedures for testing for substances ~~of abuse~~. If no such person is employed by the employer, the employer shall obtain the services of such a person to serve as a member of the committee created under this subparagraph.

(3) The written policy developed under subparagraph (2) must also require that selection of employees for testing be performed by a person or entity not subject to the employer's influence, such as a medical review officer. Selection must be made from a list, provided by the employer, of all employees subject to testing under this paragraph. The list may not contain information that would identify the employee to the person or entity making the selection.

(4) Employees who are covered by a collective bargaining agreement are not included in testing programs pursuant to this paragraph unless they agree to be included pursuant to a collective bargaining agreement as described under paragraph A.

(5) Before initiating a testing program under this paragraph, the employer ~~must~~shall obtain from the Department of Labor approval of the policy developed by the employee committee, as required in section 686. If the employer does not approve of the written policy developed by the employee committee, the employer may decide not to submit the policy to the department and not to establish the testing program. The employer may not change the written policy without approval of the employee committee.

(6) The employer may not discharge, suspend, demote, discipline or otherwise discriminate with regard to compensation or working conditions against an employee for participating or refusing to participate in an employee committee created pursuant to this paragraph.

**4. Testing while undergoing rehabilitation or treatment.** While the employee is participating in a substance ~~abuse~~use rehabilitation program either as a result of voluntary contact with or mandatory referral to the employer's employee assistance program or after a confirmed positive result as provided in section 685, subsection 2, paragraphs B and C, substance ~~abuse~~use testing may be conducted by the rehabilitation or treatment provider as required, requested or suggested by that provider.

A. Substance ~~abuse~~use testing conducted as part of such a rehabilitation or treatment program is not subject to the provisions of this subchapter regulating substance ~~abuse~~use testing.

B. An employer may not require, request or suggest that any substance ~~abuse~~use test be administered to any employee while the employee is undergoing such rehabilitation or treatment, except as provided in subsections 2 and 3.

C. The results of any substance ~~abuse~~use test administered to an employee as part of such a rehabilitation or treatment program may not be released to the employer.

**5. Testing upon return to work.** If an employee who has received a confirmed positive result returns to work with the same employer, whether or not the employee has participated in a rehabilitation program under section 685, subsection 2, the employer may require, request or suggest that the employee submit to a subsequent substance ~~abuse~~use test anytime between 90 days and one year after the date of the employee's prior test. A test may be administered under this subsection in addition to any tests conducted

under subsections 2 and 3. An employer may require, request or suggest that an employee submit to a substance ~~abuse~~use test during the first 90 days after the date of the employee's prior test only as provided in subsections 2 and 3.

**Sec. A-106. 26 MRSA §685**, as amended by PL 2003, c. 547, §3, is further amended to read:

**§ 685. Action taken on substance use tests**

Action taken by an employer on the basis of a substance ~~abuse~~use test is limited as provided in this section.

**1. Before receipt of test results.** An employer may suspend an employee with full pay and benefits or may transfer the employee to another position with no reduction in pay or benefits while awaiting an employee's test results.

**2. Use of confirmation test results.** This subsection governs an employer's use of confirmed positive results and an employee's or applicant's refusal to submit to a test requested or required by an employer in compliance with this subchapter.

A. Subject to any limitation of the Maine Human Rights Act or any other state law or federal law, an employer may use a confirmed positive result or refusal to submit to a test as a factor in any of the following decisions:

- (1) Refusal to hire an applicant for employment or refusal to place an applicant on a roster of eligibility;
- (2) Discharge of an employee;
- (3) Discipline of an employee; or
- (4) Change in the employee's work assignment.

A-1. An employer who tests a person as an applicant and employs that person prior to receiving the test result may take no action on a positive result except in accordance with the employee provisions of the employer's approved policy.

B. Before taking any action described in paragraph A in the case of an employee who receives an initial confirmed positive result, an employer shall provide the employee with an opportunity to participate for up to 6 months in a rehabilitation program designed to enable the employee to avoid future use of a substance ~~of abuse~~ and to participate in an employee assistance program, if the employer has such a program. The employer may take any action described in paragraph A if the employee receives a subsequent confirmed positive result from a test administered by the employer under this subchapter.

C. If the employee chooses not to participate in a rehabilitation program under this subsection, the employer may take any action described in paragraph A. If the employee chooses to participate in a rehabilitation program, the following provisions apply.

(1) If the employer has an employee assistance program that offers counseling or rehabilitation services, the employee may choose to enter that program at the employer's expense. If these services are not available from an employer's employee assistance program or if the employee chooses not to participate in that program, the employee may enter a public or private rehabilitation program.

(a) Except to the extent that costs are covered by a group health insurance plan, the costs of the public or private rehabilitation program must be equally divided between the employer and employee if the employer has more than 20 full-time employees. This requirement does not apply to municipalities or other political subdivisions of the State or to any employer when the employee is tested because of the alcohol and controlled substance testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V. If necessary, the employer shall assist in financing the cost share of the employee through a payroll deduction plan.

(b) Except to the extent that costs are covered by a group health insurance plan, an employer with 20 or fewer full-time employees, a municipality or other political subdivision of the State is not required to pay for any costs of rehabilitation or treatment under any public or private rehabilitation program. An employer is not required to pay for the costs of rehabilitation if the employee was tested because of the alcohol and controlled substance testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V.

(2) ~~No~~An employer may not take any action described in paragraph A while an employee is participating in a rehabilitation program, except as provided in subparagraph (2-A) and except that an employer may change the employee's work assignment or suspend the employee from active duty to reduce any possible safety hazard. Except as provided in subparagraph (2-A), an employee's pay or benefits may not be reduced while an employee is participating in a rehabilitation program, provided that the employer is not required to pay the employee for periods in which the employee is unavailable for work for the purposes of rehabilitation or while the employee is medically disqualified. The employee may apply normal sick leave and vacation time, if any, for these periods.

(2-A) A rehabilitation or treatment provider shall promptly notify the employer if the employee fails to comply with the prescribed rehabilitation program before the expiration of the 6-month period provided in paragraph B. Upon receipt of this notice, the employer may take any action described in paragraph A.

(3) Except as provided in divisions (a) and (b), upon successfully completing the rehabilitation program, as determined by the rehabilitation or treatment provider after consultation with the employer, the employee is entitled to return to the employee's previous job with full pay and benefits unless conditions unrelated to the employee's previous confirmed positive result make the employee's return impossible. Reinstatement of the employee ~~must~~may not conflict with any provision of a collective bargaining agreement between the employer and a labor organization that is the collective bargaining representative of the unit of which the employee is or would be a part. If the rehabilitation or treatment provider determines that the employee has not successfully completed the rehabilitation program within 6 months after starting the program, the employer may take any action described in paragraph A.

(a) If the employee who has completed rehabilitation previously worked in an employment position subject to random or arbitrary testing under an employer's written policy, the employer may refuse to allow the employee to return to the previous job if the employer believes that the employee may pose an unreasonable safety hazard because of the nature of the position. The employer shall attempt to find suitable work for the employee immediately after refusing the employee's return to the previous position. ~~No~~A reduction may not be made in the employee's previous benefits or rate of pay while the employee is awaiting reassignment to work or ~~while~~ working in a position other than the previous job. The employee ~~shall~~must be reinstated to the previous position or to another position with an equivalent rate of pay and benefits and with no loss of seniority within 6 months after returning to work in any capacity with the employer unless the employee has received a subsequent confirmed positive result within that time from a test administered under this subchapter or unless conditions unrelated to the employee's previous confirmed positive test result make that reinstatement or reassignment impossible. Placement of the employee in suitable work and reinstatement may not conflict with any provision of a collective bargaining agreement between the employer and a labor organization that is the collective bargaining representative of the unit of which the employee is or would be a part.

(b) Notwithstanding division (a), if an employee who has successfully completed rehabilitation is medically disqualified, the employer is not required to reinstate the employee or find suitable work for the employee during the period of disqualification. The employer is not required to compensate the employee during the period of disqualification. Immediately after the employee's medical disqualification ceases, the employer's obligations under division (a) attach as if the employee had successfully completed rehabilitation on that date.

D. This subsection does not require an employer to take any disciplinary action against an employee who refuses to submit to a test, receives a single or repeated confirmed positive result or does not choose to participate in a rehabilitation program. This subsection is intended to set minimum

opportunities for an employee with a substance ~~abuse~~use problem to address the problem through rehabilitation. An employer may offer additional opportunities, not otherwise in violation of this subchapter, for rehabilitation or continued employment without rehabilitation.

**3. Confidentiality.** This subsection governs the use of information acquired by an employer in the testing process.

A. Unless the employee or applicant consents, all information acquired by an employer in the testing process is confidential and may not be released to any person other than the employee or applicant who is tested, any necessary personnel of the employer and a provider of rehabilitation or treatment services under subsection 2, paragraph C. This paragraph does not prevent:

(1) The release of this information when required or permitted by state or federal law, including release under section 683, subsection 8, paragraph D; or

(2) The use of this information in any grievance procedure, administrative hearing or civil action relating to the imposition of the test or the use of test results.

B. Notwithstanding any other law, the results of any substance ~~abuse~~use test required, requested or suggested by any employer may not be used in any criminal proceeding.

**Sec. A-107. 26 MRSA §686, sub-§1, ¶C,** as enacted by PL 2009, c. 133, §3, is amended to read:

C. The department shall allow for the use of any federally recognized substance ~~abuse~~use test.

**Sec. A-108. 26 MRSA §688,** as amended by PL 2011, c. 657, Pt. AA, §74, is further amended to read:

### **§ 688. Substance use education**

All employers shall cooperate fully with the Department of Labor, the Department of Health and Human Services, the Department of Public Safety and any other state agency in programs designed to educate employees about the dangers of substance ~~abuse~~use and about public and private services available to employees who have a substance ~~abuse~~problem~~use disorder~~.

**Sec. A-109. 26 MRSA §689, sub-§3,** as enacted by PL 1989, c. 536, §§1 and 2 and affected by c. 604, §§2 and 3, is amended to read:

**3. Harassment.** In addition to the liability imposed under subsection 1, any employer who requires or repeatedly attempts to require an employee or applicant to submit to a substance ~~abuse~~use test under conditions that would not justify the test under this subchapter or who without substantial justification repeatedly requires an employee to submit to a substance ~~abuse~~use test under section 684, subsection 3:

A. Is subject to a civil penalty not to exceed \$1,000, payable to the affected employee, to be recovered in a civil action; and

B. For any subsequent offense against the same employee, is subject to a civil penalty of \$2,000, payable to the affected employee, to be recovered in a civil action.

**Sec. A-110. 26 MRSA §690**, as enacted by PL 1989, c. 536, §§1 and 2 and affected by c. 604, §§2 and 3, is further amended to read:

### **§ 690. Report**

The Department of Labor shall report to the joint standing committee of the Legislature having jurisdiction over labor matters on March 1, 1990, and annually on that date thereafter. This report shall:

**1. List of employers.** List those employers whose substance ~~abuse~~use testing policies have been approved by the Department of Labor under section 686;

**2. Persons tested.** Indicate whether those employers are testing applicants or employees, or both;

**3. Random or arbitrary testing.** Indicate those employers whose substance ~~abuse~~use testing policies permit random or arbitrary testing under section 684, subsection 3, and describe the employment positions subject to such random or arbitrary testing;

**4. Results.** Provide statistical data relating to the reports received from employers indicating the number of substance ~~abuse~~use tests administered by those employers in the previous calendar year and the results of those tests; and

**5. Description.** Briefly describe the general scope and practice of workplace substance ~~abuse~~use testing in the State.

**Sec. A-111. 28-A MRSA §1652, sub-§5**, as enacted by PL 2013, c. 368, Pt. XXXX, §8 and affected by §13, is amended to read:

### **5. Appropriation for substance use disorder prevention and treatment.**

Notwithstanding any provision of law to the contrary, the amount of funds appropriated from the General Fund to the Department of Health and Human Services for substance ~~abuse~~use disorder prevention and treatment may not be less than an amount equal to 31% of the excise tax collected or received by the bureau under this section.

**Sec. A-112. 28-A MRSA §1703, sub-§5**, as amended by PL 2013, c. 368, Pt. V, §61 and Pt. XXXX, §12 and affected by Pt. XXXX, §13, is further amended to read:

**5. Appropriation.** The amount of funds appropriated from the General Fund to the Department of Health and Human Services for substance ~~abuse~~use disorder prevention and treatment may not be less than the dollar amount collected or received by the bureau under this section.

**Sec. A-113. 29-A MRSA §2455, sub-§3**, as amended by PL 2011, c. 657, Pt. AA, §79, is further amended to read:



**3. Substance use disorder programs.** Upon receipt of the report required in subsection 1, the Secretary of State shall require that the following conditions be met before that person may be licensed or permitted to operate a motor vehicle:

- A. Satisfactory completion of the Driver Education and Evaluation Programs of the Department of Health and Human Services;
- B. When required, satisfactory completion of a substance ~~abuse~~use disorder treatment program or rehabilitation program approved or licensed by the Department of Health and Human Services; and
- C. When required, attendance at an after-care program arranged by the approved treatment or rehabilitation program.

**Sec. A-114. 30-A MRSA §1556, sub-§1**, as amended by PL 2001, c. 659, Pt. F, §1, is further amended to read:

**1. Furlough authorized.** The sheriff may establish rules for and permit a prisoner under the final sentence of a court a furlough from the county jail in which the prisoner is confined. Furlough may be granted for not more than 3 days at one time in order to permit the prisoner to visit a dying relative, to obtain medical services or for any other reason consistent with the rehabilitation of an inmate or prisoner that is consistent with the laws or rules of the sheriff's department. Furlough may be granted for a period longer than 3 days if required to provide treatment for a physical or mental condition of the prisoner, including a substance ~~abuse condition~~use disorder, as determined by a qualified licensed professional.

**Sec. A-115. 30-A MRSA §1659-A, sub-§3, ¶E**, as enacted by PL 2009, c. 391, §6, is amended to read:

- E. The inmate may not use alcohol or illegal drugs or other illegal substances and ~~may not abuse alcohol or abuse~~misuse any other legal substance.

**Sec. A-116. 30-A MRSA §4349-A, sub-§1, ¶C**, as repealed and replaced by PL 2013, c. 424, Pt. B, §10, is amended to read:

C. Areas other than those described in paragraph A or B for the following projects:

- (1) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;
- (2) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;
- (3) A pollution control facility;

(4) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(5) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the former State Planning Office funds to assist with the preparation of a comprehensive plan or that received funds from the department to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received; or

(6) A housing project serving the following: individuals with mental illness, developmental disabilities, physical disabilities, brain injuries, substance ~~abuse problems~~use disorder or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State. A nursing home is not considered a housing project under this paragraph.

**Sec. A-117. 30-A MRSA §5002, sub-§6, ¶B**, as enacted by PL 1989, c. 601, Pt. B, §4, is amended to read:

B. A person or family that has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including, but not limited to, welfare hotels, congregate shelters and transitional housing for persons with mental illness or substance ~~abuse problems~~use disorder;

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**Sec. A-118. 32 MRSA §64-B, sub-§1**, as enacted by PL 2007, c. 402, Pt. E, §4, is amended to read:

**1. Habitual substance use.** Habitual substance ~~abuse~~use that has resulted or is foreseeably likely to result in the licensee performing assigned services in a manner that endangers the health or safety of patients;

**Sec. A-119. 32 MRSA §90-A, sub-§5, ¶B-3**, as enacted by PL 2007, c. 274, §25, is amended to read:

B-3. Any condition or impairment within the preceding 3 years, including, but not limited to, substance ~~abuse, alcohol abuse~~ use disorder or a mental, emotional or nervous disorder or condition, that in any way affects, or if untreated could impair, the licensee's ability to provide emergency medical services or emergency medical dispatch services;

**Sec. A-120. 32 MRSA §503-B, sub-§1**, as enacted by PL 2007, c. 402, Pt. H, §7, is amended to read:

**1. Habitual substance use.** Habitual substance ~~abuse~~ use that has resulted or is foreseeably likely to result in the applicant or licensee performing services in a manner that endangers the health or safety of patients;

**Sec. A-121. 32 MRSA §2212**, as enacted by PL 2017, c. 305, §1, is amended to read:

**§ 2212. Dispensing opioid medication to patients in opioid treatment programs**

A registered professional nurse and a certified nurse practitioner may dispense opioid medication for substance ~~abuse~~ use disorder treatment purposes to patients within an opioid treatment program under the direction of the medical director of the opioid treatment program.

**Sec. A-122. 32 MRSA §2258-B**, as enacted by PL 2017, c. 305, §2, is amended to read:

**§ 2258-B. Dispensing opioid medication to patients in opioid treatment programs**

A licensed practical nurse may dispense opioid medication for substance ~~abuse~~ use disorder treatment purposes to patients within an opioid treatment program under the direction of the medical director of the opioid treatment program.

**Sec. A-123. 32 MRSA §2431-A, sub-§2, ¶B**, as amended by PL 1993, c. 600, Pt. A, §160, is further amended to read:

B. Habitual substance ~~abuse~~ use that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients;

**Sec. A-124. 32 MRSA §3292**, as amended by PL 1999, c. 90, §4, is further amended to read:

**§ 3292. Treatment of minors**

An individual licensed under this chapter who renders medical care to a minor for treatment of venereal disease or ~~abuse of drugs or alcohol~~ substance use or for the collection of sexual assault evidence through a sexual assault forensic examination is under no obligation to obtain the consent of the minor's parent or guardian or to inform the parent or guardian of the treatment. This section may not be construed to prohibit the licensed individual rendering the treatment from informing the parent or guardian. For purposes of this section, "~~abuse of drugs~~ substance use" means the use of drugs or alcohol solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

**Sec. A-125. 32 MRSA §3817**, as amended by PL 1979, c. 96, §4, is further amended to read:

**§ 3817. Services to minors for substance use**

Any person licensed under this chapter who renders psychological services to a minor for problems associated with the ~~abuse of drugs or alcohol~~ substance use is under no obligation to obtain the consent of ~~said~~ the minor's parent or guardian or to inform ~~such~~ the parent or guardian of such services. Nothing in this section ~~shall~~ may be construed so as to prohibit the licensed person rendering such services from informing ~~such~~ the parent or guardian. For purposes of this section, "~~abuse of drugs~~ substance use" means the use of drugs or alcohol solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

**Sec. A-126. 32 MRSA §3837-A, sub-§1, ¶B**, as enacted by PL 2007, c. 402, Pt. Q, §14, is amended to read:

B. Habitual substance ~~abuse~~ use that has resulted or is ~~foreseeably~~ foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients;

**Sec. A-127. 32 MRSA §6202**, as amended by PL 1995, c. 394, §3, is further amended to read:

### **§ 6202. Objective**

The objective of this legislation is to establish a State Board of Alcohol and Drug Counselors; ~~which~~ that establishes and ensures high professional standards among alcohol and drug counselors and ~~which~~ that encourages and promotes quality treatment and rehabilitation services for substance ~~abusers~~ users.

**Sec. A-128. 32 MRSA §6203-A, sub-§1**, as enacted by PL 2007, c. 402, Pt. U, §2, is amended to read:

**1. Agency.** "Agency" means an establishment, organization or institution, public or private, that is licensed by the Department of Health and Human Services and that offers, purports to offer, maintains or operates one or more programs for the assessment, diagnosis, care, treatment or rehabilitation of individuals who are suffering physically, emotionally or psychologically from the ~~abuse~~ use of alcohol or other drugs.

**Sec. A-129. 32 MRSA §6203-A, sub-§3**, as amended by PL 2011, c. 222, §1, is further amended to read:

**3. Alcohol and drug counseling services.** "Alcohol and drug counseling services" are those counseling services offered for a fee, monetary or otherwise, as part of the treatment and rehabilitation of persons ~~abusing~~ using alcohol or other drugs. The purpose of alcohol and drug counseling services is to help individuals, families and groups confront and resolve problems caused by the ~~abuse~~ use of alcohol or other drugs. Alcohol and drug counseling services are the 12 core functions defined by rule of the board. "Alcohol and drug counseling services" includes nicotine addiction counseling and treatment services.

**Sec. A-130. 32 MRSA §6203-A, sub-§7**, as enacted by PL 2007, c. 402, Pt. U, §2, is amended to read:

**7. Consumer of alcohol and drug counseling services.** "Consumer of alcohol and drug counseling services" means a person affected by or recovering from alcoholism or other drug ~~abuse~~ use.

**Sec. A-131. 32 MRSA §6206, sub-§1**, as enacted by PL 1991, c. 456, §11, is amended to read:

**1. Peer groups; self-help.** Nothing in this chapter may prevent any person from engaging in or offering substance ~~abuse~~ disorder services such as self-help, sponsorship through alcoholics or narcotics anonymous groups or other uncompensated substance ~~abuse~~ disorder assistance.

**Sec. A-132. 32 MRSA §6206, sub-§4**, as enacted by PL 1991, c. 456, §11, is amended to read:

**4. Interns.** Nothing in this chapter may be construed to apply to the activities and services of a student, intern or trainee in substance ~~abuse~~ counseling pursuing a course of study in counseling in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study.

**Sec. A-133. 32 MRSA §6206, sub-§5**, as amended by PL 1993, c. 635, §1, is further amended to read:

**5. Other licensed professionals.** Nothing in this chapter may prevent any other licensed person in the field of medicine, psychology, nursing, social work or professional counseling who is qualified to provide substance ~~abuse~~ counseling services by virtue of the requirements for that profession from engaging in or offering substance ~~abuse~~ counseling services if such a person does not profess to be providing the service of a substance ~~abuse~~ counselor as the sole professional service rendered by that person. These professionals may not be required to obtain additional certification in order to provide substance ~~abuse~~ counseling services as permitted by this subsection.

**Sec. A-134. 32 MRSA §6217-B, sub-§1**, as amended by PL 2007, c. 621, §9, is further amended to read:

**1. Active use.** Active ~~abuse~~ use of alcohol or any other drug that in the judgment of the board is detrimental to the performance or competency of a licensee of the board; or

**Sec. A-135. 32 MRSA §6221**, as amended by PL 1991, c. 509, §28, is further amended to read:

### **§ 6221. Treatment of minors**

Any person licensed under this chapter who renders counseling services to a minor for the treatment of problems associated with the ~~abuse of drugs or alcohol~~ substance use is under no obligation to obtain the consent of that minor's parent or guardian or to inform that parent or guardian of that treatment. Nothing in this section may be construed so as to prohibit the licensed person rendering that treatment from informing that parent or guardian. For the purposes of this section, "~~abuse of drugs~~ substance use" means the use of drugs or alcohol solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

**Sec. A-136. 32 MRSA §7004**, as amended by PL 2007, c. 402, Pt. V, §3, is further amended to read:

### **§ 7004. Services to minors for substance use**

Any person licensed under this chapter who renders social work services to a minor for problems associated with ~~the abuse of drugs or alcohol~~substance use is under no obligation to obtain the consent of that minor's parent or guardian or to inform that parent or guardian of the treatment. Nothing in this section may be construed so as to prohibit the licensed person rendering this treatment from informing that parent or guardian. For purposes of this section, "~~abuse of drugs~~substance use" means the use of drugs or alcohol solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

**Sec. A-137. 32 MRSA §9403, sub-§§3-B and 3-C**, as enacted by PL 1987, c. 170, §2, are amended to read:

**3-B. Drug user.** "Drug ~~abuser~~user" means a person who uses any dangerous substance in violation of any law of the State.

**3-C. Person with substance use disorder.** "~~Drug addict~~Person with substance use disorder" means a drug-dependent person who due to the use of a dangerous substance has developed such a tolerance to the substance that abrupt termination of the use of the substance would produce withdrawal symptoms.

**Sec. A-138. 32 MRSA §9405, sub-§1-A, ¶F**, as enacted by PL 1987, c. 170, §8, is further amended to read:

F. Submits an application which contains the following, to be answered by the applicant:

- (1) Full name;
- (2) Full current address and addresses for the prior 5 years;
- (3) The date and place of birth, height, weight and color of eyes;
- (4) A record of previous issuances of, refusals to issue and renew, suspensions and revocations of a license to be a contract security company. The record of previous refusals to issue alone does not constitute cause for refusal and the record of previous refusals to renew and revocations alone constitutes cause for refusal only as provided in section 9411-A;
- (5) The following questions.
  - (a) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a crime which is punishable by one year or more imprisonment or for any other crime alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

SP0714, LD 1871, item 1, 128th Maine State Legislature  
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Address the Opioid Crisis in the State Regarding Respectful Language

(b) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense which involves conduct which, if committed by an adult, would be punishable by one year or more of imprisonment or for any other juvenile offense alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(c) Have you ever been convicted of a crime described in division (a) or adjudicated as having committed a juvenile offense as described in division (b)?

(d) Is there a formal charging instrument now pending against you in this jurisdiction for any crime enumerated in section 9412?

(e) Is there a formal charging instrument now pending against you in this jurisdiction for a juvenile offense which involves conduct which, if committed by an adult, would be a crime enumerated in section 9412?

(f) Have you within the past 5 years been convicted of a crime described in division (d) or adjudicated as having committed a juvenile offense as described in division (e)?

(g) Are you a fugitive from justice?

(h) Are you a drug ~~abuser~~user, ~~drug-addict~~person with substance use disorder or drug-dependent person?

(i) Do you have a mental disorder which causes you to be potentially dangerous to yourself or others?

(j) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, article V, Parts 3 and 4, and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?

(k) Have you been dishonorably discharged from the military forces within the past 5 years?

(l) Are you an illegal alien?;

(6) A list of employees as of the date the applicant signs the application who will perform security guard functions within the State. This list shall identify each employee by his full name, full current address and addresses for the prior 5 years and his date and place of birth, height, weight and color of eyes. For each employee on this list who will perform security guard functions at the site of a labor dispute or strike, the applicant shall have previously investigated the background of the employee to ensure that the employee meets all of the requirements to be a security guard as contained in section 9410-A, subsection 1. If the employee meets all of the requirements to be a security guard, the applicant shall also submit a statement, signed by the applicant, stating that the applicant has conducted this background investigation and that the employee meets the requirements contained in section 9410-A, subsection 1; and

(7) A photograph of the applicant taken within 6 months of the date the applicant affixes his signature to the application; and

**Sec. A-139. 32 MRSA §9410-A, sub-§1, ¶H,** as enacted by PL 1987, c. 170, §12, is amended to read:

H. Is not a drug ~~abuser~~user, ~~drug addict~~person with substance use disorder or drug-dependent person;

**Sec. A-140. 32 MRSA §9860-A, sub-§1,** as enacted by PL 2007, c. 402, Pt. X, §6, is amended to read:

**1. Substance use.** Habitual substance ~~abuse~~use or ~~abuse~~use of ~~other~~ drugs listed as controlled substances by the ~~drug-enforcement administration~~federal Drug Enforcement Administration that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients; or

**Sec. A-141. 32 MRSA §13721, sub-§1, ¶D,** as enacted by PL 1987, c. 710, §5, is amended to read:

D. The inspection during business hours of all pharmacies, dispensaries, stores, hospital pharmacies, extended care facilities, boarding homes, nursing homes, ~~drug-abuse~~substance use disorder treatment centers, penal institutions, family planning centers or other drug outlets in which drugs or medicines are manufactured, stored, distributed, compounded, dispensed or retailed in this State;

**Sec. A-142. 32 MRSA §13856, sub-§1,** as amended by PL 1989, c. 895, §9, is further amended to read:

**1. Other professionals.** Nothing in this chapter may be construed to apply to the activities and services of members of other professions licensed, certified or registered by the State such as, but not limited to, psychiatrists, physicians, psychologists, registered nurses, social workers and substance ~~abuse~~use disorder counselors performing counseling consistent with the laws of the State governing their practices.

**Sec. A-143. 32 MRSA §13861-A, sub-§1, ¶A,** as enacted by PL 2007, c. 402, Pt. EE, §9, is amended to read:



A. Habitual substance ~~abuse~~ or ~~abuse~~ of other drugs listed as controlled substances by the federal Drug Enforcement Administration that has resulted or is foreseeably likely to result in the applicant's or licensee's performing services in a manner that endangers the health or safety of patients;

**Sec. A-144. 32 MRSA §14308-A, sub-§1**, as enacted by PL 2007, c. 402, Pt. II, §9, is amended to read:

**1. Habitual substance use.** Habitual substance ~~abuse~~ that has resulted or is ~~foreseeably~~foreseeably likely to result in the applicant's or licensee's performing services in a manner that endangers the health or safety of clients;

**Sec. A-145. 32 MRSA §18393, sub-§2**, as enacted by PL 2015, c. 429, §21, is amended to read:

**2. General rule of privilege.** A patient has a privilege to refuse to disclose and to prevent another person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental or emotional conditions, including ~~alcohol or drug addiction~~substance use disorder, among the patient, the patient's dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

**Sec. A-146. 34-A MRSA §1206, sub-§1, ¶D**, as amended by PL 2011, c. 542, Pt. A, §58, is further amended to read:

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, adult developmental, poverty, public assistance, rehabilitation, social, substance ~~abuse~~disorder, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure for the department.

**Sec. A-147. 34-A MRSA §1206-A, sub-§1, ¶B**, as enacted by PL 2009, c. 92, §1, is amended to read:

B. "Community intervention program" means a program operated at the community level providing services designed to intervene in the risk factors for reoffending, including, but not limited to, mental health, sex offender treatment, social service and substance ~~abuse~~disorder treatment programs, but not including a batterers' intervention program under Title 19-A, section 4014.

**Sec. A-148. 34-A MRSA §1208-B, sub-§1, ¶A**, as enacted by PL 2015, c. 335, §22, is amended to read:

A. The standards, policies and procedures must address record keeping and reporting of financial data, capital improvement planning, jail staffing, administration and management of prisoners, transfer of inmates, notification to prisoners of prohibition on contact with victims and other persons, pretrial assessments and services, evidence-based programming, literacy programs, mental health and substance ~~abuse~~disorder programs and correctional officer training.

**Sec. A-149. 34-A MRSA §1214, sub-§5**, as enacted by PL 2001, c. 686, Pt. D, §1, is amended to read:

**5. Report regarding batterers intervention programs.** Beginning January 2003 and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the work of batterers intervention programs. The report must include information regarding: meeting program benchmarks and goals, developing and implementing new programs, measuring effectiveness of existing programs and communicating and coordinating efforts with providers of substance abuse disorder services, literacy support and other services with whom batterers may need to work in order to participate meaningfully in a batterers intervention program.

**Sec. A-150. 34-A MRSA §3036-A, sub-§3, ¶F**, as enacted by PL 1991, c. 845, §4, is amended to read:

F. The prisoner may not possess or use illegal drugs or other illegal substances, may not possess or use alcohol and may not ~~abuse~~ use any other legal substance.

**Sec. A-151. 34-A MRSA §7002, sub-§2, ¶A**, as corrected by RR 2003, c. 2, §100, is amended to read:

A. Constitute an interdepartmental coordinating committee on primary prevention, which must be chaired by the commissioner or the commissioner's designee and must include representation from the Department of Education, Department of Health and Human Services, Department of Labor, Department of Public Safety, the Juvenile Justice Advisory Group and such other public or private agencies as the commissioner may wish to nominate that have responsibilities associated with preventing not only delinquency, but also child abuse, substance abuse disorder, running away from home, truancy and failing to complete school and other destructive behavior that affects juveniles. This coordinating committee shall:

(1) Develop a state primary prevention plan that provides for the use of state resources in ways that will strengthen the commitment of local communities to altering conditions that contribute to delinquency and other destructive behaviors that affect juveniles, so that the burden of state-funded treatment and crisis-responsive service programs will be reduced. The plan must provide for the coordination and consolidation of the primary prevention planning efforts of each of the state agencies specified in this section. The plan must set forth quantifiable and time-limited goals, objectives and strategies and must include proposals to integrate and build upon successful primary prevention programs;

(2) Provide for the evaluation of policies and programs developed and implemented pursuant to the plan; and

(3) Prepare, annually by November 1st, an appraisal of the State's primary prevention activities during the previous year and its recommendations for programs and activities relating to primary prevention.

**Sec. A-152. 34-B MRSA §1208, sub-§1, ¶D**, as amended by PL 2011, c. 542, Pt. A, §62, is further amended to read:

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

**Sec. A-153. 34-B MRSA §1221, first ¶**, as amended by PL 2007, c. 286, §4, is further amended to read:

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

**Sec. A-154. 34-B MRSA §1221, sub-§1, ¶C**, as enacted by PL 1997, c. 643, Pt. XX, §4, is amended to read:

C. Representatives of providers of substance ~~abuse~~use disorder services designated by the department;

**Sec. A-155. 34-B MRSA §3801, sub-§11**, as enacted by PL 2005, c. 519, Pt. BBBB, §3 and affected by §20, is amended to read:

**11. Assertive community treatment.** "Assertive community treatment" or "ACT" means a self-contained service with a fixed point of responsibility for providing treatment, rehabilitation and support services to persons with mental illness for whom other community-based treatment approaches have been unsuccessful. Assertive community treatment uses clinical and rehabilitative staff to address symptom stability; relapse prevention; maintenance of safe, affordable housing in normative settings that promote well-being; establishment of natural support networks to combat isolation and withdrawal; the minimizing of involvement with the criminal justice system; individual recovery education; and services to enable the person to function at a work site. Assertive community treatment is provided by multidisciplinary teams who are on duty 24 hours per day, 7 days per week; teams must include a psychiatrist, registered nurse, certified rehabilitation counselor or certified employment specialist, a peer recovery specialist and a substance ~~abuse~~use disorder counselor and may include an occupational therapist, community-based mental health rehabilitation technician, psychologist, licensed clinical social

worker or licensed clinical professional counselor. An ACT team member who is a state employee is, while in good faith performing a function as a member of an ACT team, performing a discretionary function within the meaning of Title 14, section 8104-B, subsection 3.

**Sec. A-156. 36 MRSA §1760, sub-§28**, as amended by PL 2011, c. 542, Pt. A, §135, is further amended to read:

**28. Community mental health facilities, community adult developmental services facilities and community substance use disorder facilities.** Sales to mental health facilities, adult developmental services facilities or substance ~~abuse~~use disorder facilities that are:

A. Contractors under or receiving support under the Federal Community Mental Health Centers Act, or its successors; or

B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204.

**Sec. A-157. 36 MRSA §2557, sub-§6**, as amended by PL 2011, c. 542, Pt. A, §140, is further amended to read:

**6. Community mental health facilities, community adult developmental services facilities and community substance use disorder facilities.** Sales to mental health facilities, adult developmental services facilities or substance ~~abuse~~use disorder facilities that are:

A. Contractors under or receiving support under the federal Community Mental Health Centers Act, or its successors; or

B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204;

**Sec. A-158. 36 MRSA §2559**, as amended by PL 2015, c. 300, Pt. A, §35, is further amended to read:

### **§ 2559. Application of revenues**

Revenues derived by the tax imposed by this chapter must be credited to a General Fund suspense account. On or before the last day of each month, the State Controller shall transfer a percentage of the revenues received by the State Tax Assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A to F and L to the Local Government Fund as provided by Title 30-A, section 5681, subsection 5. The balance remaining in the General Fund suspense account must be transferred to service provider tax General Fund revenue. On or before the 15th day of each month, the State Controller shall transfer all revenues received by the assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs G to J and M to the Medical Care Services Other Special Revenue Funds account, the Other Special Revenue Funds Mental Health Services - Community Medicaid program, the Medicaid Services - Adult Developmental Services program and the Office of Substance ~~Abuse~~Use Disorder - Medicaid Seed program within the Department of Health and Human Services.

**Sec. A-159. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 4, chapter 8, in the chapter headnote, the words "alcohol and drug treatment programs" are amended to read "substance use disorder treatment programs" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-160. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 5, Part 25, in the Part headnote, the words "substance abuse prevention and treatment" are amended to read "substance use disorder prevention and treatment" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-161. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 5, chapter 521, in the chapter headnote, the words "substance abuse prevention and treatment" are amended to read "substance use disorder prevention and treatment" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-162. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 5, chapter 521, subchapter 4-A, in the subchapter headnote, the words "substance abuse services commission" are amended to read "substance use disorder services commission" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-163. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 223, subchapter 7-A, in the subchapter headnote, the words "school substance abuse services" are amended to read "school substance use disorder services" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-164. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 25, Part 13, in the Part headnote, the words "substance abuse assistance" are amended to read "substance use disorder assistance" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-165. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 25, chapter 601, in the chapter headnote, the words "substance abuse assistance program" are amended to read "substance use disorder assistance program" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-166. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 26, chapter 7, subchapter 3-A, in the subchapter headnote, the words "substance abuse testing" are amended to read "substance use testing" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## PART B

**Sec. B-1. Department of Health and Human Services rules, forms, policies and publications.** When adopting or amending its rules and developing, publishing and issuing forms, policies and publications, the Department of Health and Human Services shall replace references to

"substance abuse" with references to "substance use disorder" and shall ensure that language referring to persons with substance use disorder is consistent with respectful language recommended in the final report of the Task Force to Address the Opioid Crisis in the State.

**Sec. B-2. Intent; effect.** This Act is not intended to and does not change the eligibility requirements for services or benefits or result in an expansion of services or benefits provided by the Department of Health and Human Services or impact eligibility or requirements for federal programs and grants.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

## SUMMARY

This bill implements a recommendation of the Task Force to Address the Opioid Crisis in the State.

The bill replaces statutory references to "substance abuse" with "substance use disorder." It also replaces statutory references to "addict" with "person with substance use disorder." The changes in language are intended to be respectful and minimize stigma for individuals who suffer with this disorder.

The bill directs the Department of Health and Human Services to replace references to "substance abuse" in its rules, forms, policies and publications with "substance use disorder."

The bill is not intended to change eligibility requirements for services or benefits provided by the department or affect the State's eligibility or requirements for federal programs or grants.