CHAPTER 3

MENTAL HEALTH

SUBCHAPTER 1

MENTAL HEALTH SERVICES

§3001. General

The Department of Health and Human Services is responsible for the direction of the mental health programs in the state institutions and for the promotion and guidance of mental health programs within the communities of the State. [PL 1995, c. 560, Pt. K, §31 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC15 (AMD). PL 1995, c. 560, §K31 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV).

§3002. Director

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1987, c. 887, §6 (AMD). PL 1993, c. 410, §CCC16 (RP).

§3003. Rules

1. Promulgation. The commissioner shall adopt rules, subject to the Maine Administrative Procedure Act, Title 5, chapter 375, for the enhancement and protection of the rights of clients receiving services from the department, from any hospital pursuant to subchapter IV or from any program or facility administered or licensed by the department under section 1203-A.
[PL 1993, c. 410, Pt. CCC, §17 (AMD).]

2. Requirements. The rules shall include, but are not limited to:

A. Establishment of the right to provision of treatment and related services in the least restrictive appropriate setting; [PL 1983, c. 459, §7 (NEW).]

B. Establishment of the right to an individualized treatment or service plan, to be developed with the participation of the client; [PL 1983, c. 459, §7 (NEW).]

C. Standards for informed consent to treatment, including reasonable standards and procedural mechanisms for determining when to treat a client absent informed consent, consistent with applicable law, except that involuntary treatment of involuntarily hospitalized incapacitated persons who are unwilling or unable to comply with treatment is allowed solely in accordance with the provisions of section 3861, subsection 3 or section 3864, subsection 1-A; [PL 2007, c. 580, §1 (AMD).]

D. Standards for participation in experimentation and research; [PL 1983, c. 459, §7 (NEW).]

E. Standards pertaining to the use of seclusion and restraint; [PL 1983, c. 459, §7 (NEW).]

F. Establishment of the right to appropriate privacy and to a humane treatment environment; [PL 1983, c. 459, §7 (NEW).]

G. Establishment of the right to confidentiality of records and procedures pertaining to a person's right to access to that person's mental health care records; [RR 2019, c. 2, Pt. B, §93 (COR).]

H. Establishment of the right to receive visitors and to communicate by telephone and mail; [PL 1983, c. 459, §7 (NEW).]

I. Procedures to ensure that clients are notified of their rights; [PL 1983, c. 459, §7 (NEW).]

J. The right to assistance in protecting a right or advocacy service in the exercise or protection of a right; [PL 1987, c. 246, §1 (AMD).]

K. Provisions for a fair, timely and impartial grievance procedure for the purpose of ensuring appropriate administrative resolution of grievances with respect to infringement of rights; and [PL 1987, c. 246, §1 (AMD).]

L. To the extent that state and community resources are available, establishment of the rights of long-term mentally ill clients containing the following requirements:

(1) The right to a service system which employs culturally normative and valued methods and settings;

(2) The right to coordination of the disparate components of the community service system;

(3) The right to individualized developmental programming which recognizes that each long-term mentally ill individual is capable of growth or slowing of deterioration;

(4) The right to a continuum of community services allowing a gradual transition from a more intense level of service; and

(5) The right to the maintenance of natural support systems, such as family and friends of the long-term mentally ill individual and formal and informal networks of mutual and self-help. [PL 1987, c. 246, §2 (NEW).]

[RR 2019, c. 2, Pt. B, §93 (COR).]

3. Public hearing. The commissioner shall hold a public hearing before adopting these rules and shall give notice of the public hearing pursuant to the Maine Administrative Procedure Act, Title 5, section 8053.

[PL 1995, c. 560, Pt. K, §32 (AMD).]

4. Legislative review. When a rule is proposed or adopted under this section, a copy of the proposed or adopted rule shall be sent to the legislative committee having jurisdiction over health and institutional services.

A. The committee may review the rule and, if it determines that an adopted rule should be stricken or amended, the committee may prepare legislation to accomplish that purpose and submit the legislation to the full Legislature in accordance with legislative rules. [PL 1983, c. 459, §7 (NEW).]

B. The adopted rule shall remain in effect unless the full Legislature acts to strike or amend it, or it is repealed or amended by the director in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 645, §4 (AMD). PL 1987, c. 246, §§1,2 (AMD). PL 1993, c. 410, §CCC17 (AMD). PL 1995, c. 560, §K32 (AMD). PL 2007, c. 446, §1 (AMD). PL 2007, c. 446, §7 (AFF). PL 2007, c. 580, §1 (AMD). RR 2019, c. 2, Pt. B, §93 (COR).

§3004. Community Support Systems

1. Definition. As used in this section, unless the context otherwise indicates, the term "community support system" means the entire complex of mental health, rehabilitative, residential and other support services in the community to ensure community integration and the maintenance of a decent quality of life for persons with chronic mental illness.
[PL 1983, c. 580, §6 (NEW).]

2. General policy. The department shall develop programs to:

A. Promote and support the development and implementation of comprehensive community support systems to ensure community integration and the maintenance of a decent quality of life for persons with chronic mental illness in each of the mental health service areas in the State; and [PL 1983, c. 580, §6 (NEW).]

B. Strengthen the capacity of families, natural networks, self-help groups and other community resources in order to improve the support for persons with chronic mental illness. [PL 1983, c. 580, §6 (NEW).]
[PL 1995, c. 560, Pt. K, §33 (AMD).]

3. Duties. The department shall:

A. Provide technical assistance for program development, promote effective coordination with health and other human services and develop new resources in order to improve the availability and accessibility of comprehensive community support services to persons with chronic mental illness; [PL 1983, c. 580, §6 (NEW).]

B. Assess service needs, monitor service delivery related to these needs and evaluate the outcome of programs designed to meet these needs in order to enhance the quality and effectiveness of community support services; [PL 1985, c. 768, §4 (AMD).]

C. Prepare a report that describes the system of community support services in each of the mental health service regions and statewide.

(1) The report must include both existing service resources and deficiencies in the system of services.

(2) The report must include an assessment of the roles and responsibilities of mental health agencies, human services agencies, health agencies and involved state departments and must suggest ways in which these agencies and departments can better cooperate to improve the service system for people with chronic mental illness.

(3) The report must be prepared biennially and must be submitted to the joint standing committee of the Legislature having jurisdiction over human resources by December 15th of every even-numbered year.

(4) The committee shall review the report and make recommendations with respect to administrative and funding improvements in the system of community support services to persons with chronic mental illness; and [PL 1995, c. 560, Pt. K, §33 (AMD).]

D. Participate with school administrative units in transition planning for each student with chronic mental illnesses who is receiving special education services and who is 16 years of age or older, or 14 years of age if determined appropriate by the student's individualized education program team, and shall assign appropriate staff as a transition contact person and as a member of the transition planning team for each student. [PL 2011, c. 348, §9 (AMD).]
[PL 2011, c. 348, §9 (AMD).]

SECTION HISTORY

PL 1983, c. 580, §6 (NEW). PL 1985, c. 768, §§4,5 (AMD). PL 1987, c. 404, §1 (AMD). PL 1993, c. 410, §CCC18 (AMD). PL 1995, c. 560, §K33 (AMD). PL 2009, c. 147, §12 (AMD). PL 2011, c. 348, §9 (AMD).

§3005. Services to persons who are deaf or hearing-impaired

(REPEALED)

SECTION HISTORY

PL 1985, c. 467 (NEW). PL 1987, c. 331 (RPR). PL 1993, c. 410, §CCC19 (AMD). PL 1993, c. 519, §2 (RP).

§3006. State Mental Health Plan

(REPEALED)

SECTION HISTORY

PL 1987, c. 404, §2 (NEW). PL 1987, c. 769, §A126 (RPR). PL 1987, c. 887, §7 (AMD). PL 1991, c. 781, §A1 (RP).

§3006-A. State mental health plan

(REPEALED)

SECTION HISTORY

PL 1991, c. 781, §A2 (NEW). MRSA T. 34-B §3006A (RP).

§3007. Teenage Suicide Prevention Program

The department shall, in cooperation with the Department of Education and the "local action councils" funded in Public Law 1987, chapter 349, Part A under the heading "Human Services, Department of," develop a teenage suicide prevention strategy and a model suicide prevention program to be presented in the secondary schools of the State. Development of such a program must include preparation of relevant educational materials that must be distributed in the schools. [RR 2003, c. 2, §101 (COR).]

SECTION HISTORY

PL 1987, c. 783, §1 (NEW). PL 1989, c. 700, §A164 (AMD). PL 1993, c. 410, §CCC20 (AMD). PL 1995, c. 560, §K34 (AMD). RR 2003, c. 2, §101 (COR). PL 2003, c. 689, §B6 (REV).

§3008. Sexual activity with recipient of services prohibited

A person who owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services may not engage in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, with another person or subject another person to sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, if the other person, not the actor's spouse, is a person with mental illness who receives therapeutic, residential or habilitative services from the organization, program or residence. [RR 2003, c. 2, §102 (COR).]

SECTION HISTORY

PL 1993, c. 687, §8 (NEW). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). RR 2003, c. 2, §102 (COR).

§3009. Nonlapsing funds

Any unencumbered balance of General Fund appropriations remaining at the end of each fiscal year in the Mental Health Services - Community Medicaid account may not lapse but must be carried forward to be used for the same purposes. [PL 1995, c. 665, Pt. N, §1 (NEW).]

REVISOR'S NOTE: §3009. Access to mental health services (As enacted by PL 1995, c. 697, §1 is REALLOCATED TO TITLE 34-B, SECTION 3010)

SECTION HISTORY

RR 1995, c. 2, §87 (RAL). PL 1995, c. 665, §N1 (NEW). PL 1995, c. 697, §1 (NEW).

§3010. Access to mental health services

(REALLOCATED FROM TITLE 34-B, SECTION 3009)

Any money that is identified as net General Fund savings through legislative actions or through departmental administrative actions due to the closure of or diminution of services at a state mental health institution or to lowered administrative costs within the department must be used to provide mental health services to persons in need of those services in other appropriate settings and programs, including, but not limited to, community-based mental health programs. For the purposes of this section, "net General Fund savings" means total savings in the General Fund projected to be available due to a series of specific actions less any cost or liability resulting from implementing those actions. [RR 1995, c. 2, §87 (RAL).]

SECTION HISTORY

RR 1995, c. 2, §87 (RAL).

§3011. Bridging Rental Assistance Program

The Bridging Rental Assistance Program is established within the department as a transitional housing voucher program. The purpose of the program is to assist persons with mental illness with housing assistance for up to 24 months or until they receive assistance from a housing voucher program administered by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8 or receive an alternative housing placement. The department shall adopt rules to carry out the purpose of the program. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [RR 2017, c. 1, §31 (COR).]

SECTION HISTORY

PL 2015, c. 267, Pt. WW, §1 (NEW). RR 2017, c. 1, §31 (COR).

§3012. Advocacy services for individuals with serious mental illness

1. Legislative intent. It is the intent of the Legislature to effectuate the State's commitment to protecting the rights of individuals with serious mental illness, as demonstrated by the successful resolution and dismissal of the Augusta Mental Health Institute Consent Decree, issued on December 3, 2024, by the Superior Court, Kennebec County, Civil Action Docket No. 89-88. Independent advocacy was a key component of the system improvements that supported that resolution, and the Legislature seeks to ensure that those protections continue through the ongoing delivery of advocacy services in both institutional and community settings.
[PL 2025, c. 349, §1 (NEW).]

2. Contract for protection and advocacy services. The department shall contract with and make a good faith effort to obtain sufficient appropriations to fund the agency designated under Title 5, section 19502 to carry out the duties related to protecting the rights of individuals with serious mental illness in both institutional and community settings. The contract must be consistent with the scope of authority and protections provided in Title 5, chapter 511 and must ensure that advocacy services are provided statewide through a presence in at least 5 geographically dispersed areas.
[PL 2025, c. 349, §1 (NEW).]

3. Access to state mental health institute records. In addition to the agency's authority to access records under Title 5, chapter 511 and notwithstanding subsection 1207, the agency contracted under

subsection 2 may access medical records of individuals with serious mental illness who are hospitalized in a state mental health institute as defined in section 3801, subsection 9 when necessary to provide advocacy services as authorized under Title 5.
[PL 2025, c. 349, §1 (NEW).]

4. Medical advice. Advocates providing services in accordance with this section are prohibited from providing medical advice.
[PL 2025, c. 349, §1 (NEW).]

REVISOR'S NOTE: §3012. Residents of certified recovery residences (As enacted by PL 2025, c. 427, §1 is REALLOCATED TO TITLE 34-B, SECTION 3013)

SECTION HISTORY

PL 2025, c. 349, §1 (NEW).

§3013. Residents of certified recovery residences

(REALLOCATED FROM TITLE 34-B, SECTION 3012)

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

A. "Certified recovery residence" means a residence that is certified pursuant to the requirements established in Title 5, section 20005, subsection 22. [PL 2025, c. 427, §1 (NEW); RR 2025, c. 1, Pt. A, §47 (RAL).]

B. "Program" means the Bridging Rental Assistance Program established in section 3011 and administered by the department. [PL 2025, c. 427, §1 (NEW); RR 2025, c. 1, Pt. A, §47 (RAL).]
[PL 2025, c. 427, §1 (NEW); RR 2025, c. 1, Pt. A, §47 (RAL).]

2. Eligibility of residents. An individual residing in a certified recovery residence is eligible to apply for a program housing voucher to be used upon the individual's departure from the certified recovery residence, as long as the individual meets all applicable standards and conditions established by the department for the program. Residency in a certified recovery residence may not be construed as a barrier to application or receipt of such a voucher. This section does not authorize individuals to use program housing vouchers to subsidize the cost of residing at a certified recovery residence.
[PL 2025, c. 427, §1 (NEW); RR 2025, c. 1, Pt. A, §47 (RAL).]

3. Guidance. The department shall provide guidance to certified recovery residences and housing assistance programs to ensure consistent application of this section, including public education efforts to inform residents of certified recovery residences and providers in certified recovery residences of their rights and responsibilities under this section.
[PL 2025, c. 427, §1 (NEW); RR 2025, c. 1, Pt. A, §47 (RAL).]

4. Rulemaking. The department shall adopt or amend rules as necessary to implement the provisions of this section. In adopting rules, the department shall ensure that individuals being released from institutions, individuals being released from incarceration and homeless individuals have priority over individuals residing in certified recovery residences in the award of program housing vouchers. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2025, c. 427, §1 (NEW); RR 2025, c. 1, Pt. A, §47 (RAL).]

SECTION HISTORY

PL 2025, c. 427, §1 (NEW). RR 2025, c. 1, Pt. A, §47 (RAL).

SUBCHAPTER 2

STATE MENTAL HEALTH INSTITUTES

§3201. Maintenance

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2005, c. 236, §2 (AMD). PL 2007, c. 539, Pt. N, §66 (RP).

§3202. Superintendent

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1989, c. 501, §BB4 (AMD). PL 1993, c. 410, §§CCC21,22 (AMD). PL 1995, c. 560, §K35 (AMD). PL 2005, c. 236, §§3,4 (REV). PL 2007, c. 539, Pt. N, §67 (RP).

SUBCHAPTER 3

COMMUNITY MENTAL HEALTH SERVICES

ARTICLE 1

GENERAL PROVISIONS

§3601. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 580, §7 (RPR).]

1. Agency. "Agency" means a person, firm, association or corporation, but does not include the individual or corporate professional practice of one or more psychologists or psychiatrists.
[PL 1983, c. 580, §7 (RPR).]

1-A. Case management services. "Case management services" means those services which assist an individual in gaining access to and making effective use of the range of medical, psychological and other related services available to them.
[PL 1987, c. 246, §3 (NEW).]

1-B. Long-term mentally ill. "Long-term mentally ill" means persons who suffer certain mental or emotional disorders, such as organic brain syndrome, schizophrenia, recurrent depressive and manic-depressive disorders, paranoid and other psychoses, plus other disorders which may become chronic, that erode or prevent the capacities in relation to 3 or more of the primary aspects of daily life, such as personal hygiene and self-care, self-direction, interpersonal relationships, social transactions, learning, recreation and economic self-sufficiency. While these persons may be at risk of institutionalization, there is no requirement that these persons are or have been residents of institutions providing mental health services.
[PL 1987, c. 246, §3 (NEW).]

2. Mental health services. "Mental health services" means out-patient counseling, other psychological, psychiatric, diagnostic or therapeutic services and other allied services.
[PL 1983, c. 580, §7 (RPR).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §7 (RPR). PL 1987, c. 246, §3 (AMD).

§3602. Purpose

The purpose of this subchapter is to expand community mental health services, encourage participation in a program of community mental health services by persons in local communities, obtain better understanding of the need for those services and secure aid for programs of community mental health services by state aid and local financial support. [PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§3603. Commissioner's duties

The commissioner shall promulgate rules, according to the Maine Administrative Procedure Act, Title 5, chapter 375, relating to the administration of the services authorized by this subchapter and to licensing under this subchapter. [PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§3604. Commissioner's powers

1. Provision of services. The commissioner may provide mental health services throughout the State and for that purpose may cooperate with other state agencies, municipalities, persons, unincorporated associations and nonstock corporations.
[PL 1983, c. 459, §7 (NEW).]

2. Funding sources. The commissioner may receive and use for the purpose of this subchapter money appropriated by the State, grants by the Federal Government, gifts from individuals and gifts from any other sources.
[PL 1983, c. 459, §7 (NEW).]

3. Grants. The commissioner may make grants of funds to any state or local governmental unit, or branch of a governmental unit, or to a person, unincorporated association or nonstock corporation, which applies for the funds, to be used in the conduct of its mental health services.

A. The programs administered by the person or entity shall provide for adequate standards of professional services in accordance with state statutes. [PL 1983, c. 580, §8 (RPR).]

B. The commissioner may require the person or entity applying for funds to produce evidence that appropriate local, governmental and other funding sources have been sought to assist in the financing of its mental health services. [PL 1983, c. 580, §8 (RPR).]

C. After negotiation with the person or entity applying for funds, the commissioner may execute a contract or agreement for the provision of mental health services which reflects the commitment by the person or entity of local, governmental and other funds to assist in the financing of its mental health services. [PL 1983, c. 580, §8 (NEW).]

D. Beyond the commissioner's assuring through program monitoring and auditing activities that an equitable distribution of the funds committed by contract or agreement to assist in the financing of mental health services are actually provided, it shall be the prerogative of the person or entity providing services to apportion other nonstate funds in an appropriate manner in accordance with its priorities, service contracts and applicable provisions of law. [PL 1983, c. 580, §8 (NEW).]

E. Any new contract must be awarded through a request-for-proposal procedure and 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.

(1) 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.

(2) Notwithstanding subparagraph (1), the department shall subject a contract to a request-for-proposal procedure when necessary to comply with paragraph G. [PL 1997, c. 381, §2 (AMD).]

F. The commissioner shall establish a procedure to obtain assistance and advice from consumers of mental health services regarding the selection of contractors when requests for proposals are issued. [PL 1991, c. 452, §1 (NEW).]

G. 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 or unwilling 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. [PL 1993, c. 624, §2 (NEW).]

[PL 1997, c. 381, §2 (AMD).]

4. Cooperative planning required; grant recipients and correctional authorities. As a condition for receipt of state mental health funding, providers of community mental health services to persons with serious mental illness shall develop with state and local correctional authorities cooperative plans for the provision of services to those persons. These plans must include at least the following:

A. Procedures for timely referral of persons with serious mental illness to community-based mental health services; [PL 1995, c. 431, §3 (NEW).]

B. Provision for the treatment and support of persons with serious mental illness in correctional facilities and commitment of funds within available resources; and [PL 1995, c. 431, §3 (NEW).]

C. Procedures for referrals of individuals with serious mental illness to local providers of comprehensive mental health services following release from correctional facilities, including mechanisms for developing comprehensive treatment plans before the release from correctional facilities of persons with serious mental illness. [PL 1995, c. 431, §3 (NEW).]

Providers of community mental health services and other public providers of comprehensive services to persons with serious mental illness that fail to participate in the development of plans to serve this population are not eligible for state funding for the provision of mental health services.
[PL 1995, c. 431, §3 (NEW).]

5. Exclusion. Beginning October 1, 1996, an entity that applies for the award or renewal of a grant or contract for the provision of mental health services must be a participating member of the community service network, as established in section 3608, for the region of the State subject to that grant or contract.
[PL 2013, c. 132, §2 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §8 (AMD). PL 1991, c. 452, §1 (AMD). PL 1993, c. 624, §§1,2 (AMD). PL 1995, c. 431, §3 (AMD). PL 1995, c. 691, §6 (AMD). PL 1997, c. 381, §2 (AMD). PL 2007, c. 286, §5 (AMD). PL 2013, c. 132, §2 (AMD).

§3605. Governmental agencies

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 777, §1 (RP).

§3606. Licenses

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §9 (RPR). PL 1989, c. 227, §2 (RP).

§3607. Quality improvement councils

(REPEALED)

SECTION HISTORY

PL 1995, c. 691, §7 (NEW). PL 1997, c. 365, §§1,2 (AMD). PL 1997, c. 371, §§1-4 (AMD). PL 1997, c. 683, §B22 (AMD). PL 2005, c. 236, §§3,4 (REV). PL 2007, c. 286, §6 (RP).

§3607-A. Institute councils

(REPEALED)

SECTION HISTORY

PL 2007, c. 286, §7 (NEW). PL 2013, c. 132, §3 (RP).

§3608. Community service networks

The department shall establish and oversee community service networks with the collective responsibility to coordinate and ensure continuity of care within the delivery of mental health services to adult mental health consumers under the authority of the department. A network consists of organizations providing mental health services funded by the General Fund or Medicaid in the corresponding area specified in subsection 1-A. The community service networks must be established and operated in accordance with standards adopted by the department to establish and operate networks. Departmental oversight includes, but is not limited to, establishing and overseeing protocols, quality assurance, writing and monitoring contracts for service, establishing outcome measures and ensuring that each network provides an integrated system of care. The department may adopt rules to carry out this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. This section may not be construed to supersede the authority of the department as the single state Medicaid agency under the Social Security Act, Title XII or to affect the professional standards and practices of nonnetwork providers. [PL 2007, c. 286, §8 (AMD).]

1. Responsibilities. Each network shall:

A. Ensure 24-hour access to a consumer's community support services records for better continuity of care during a psychiatric crisis; [PL 2007, c. 286, §8 (AMD).]

B. Ensure continuity, accountability and coordination regarding service delivery; [PL 1995, c. 691, §7 (NEW).]

C. Participate in collection of uniform data; [PL 2007, c. 286, §8 (AMD).]

D. In conjunction with the department, conduct planning activities based on data and client outcomes; [PL 2007, c. 286, §8 (AMD).]

E. Develop techniques for identifying and providing services to consumers at risk, based on the principle that services will be provided as close to the consumer's home as possible; [PL 2007, c. 545, §1 (AMD).]

F. Enable, among other things, the sharing of confidential client information to the extent necessary to protect the client's health and safety when it is determined the client has an urgent need for mental health services. The network members shall share confidential client information, even without a client's consent, to the extent necessary to protect the client's health and safety in a period of urgent need for mental health services when the client lacks the capacity to give consent for the information sharing or when an exigency exists so that the client's health and safety is better protected if the information is shared without a delay to obtain consent. A person or entity participating in good faith in sharing information under this paragraph is immune from civil liability that might otherwise result from these actions, including, but not limited to, a civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. The department shall adopt rules to identify the limits and requirements to be included in the memoranda. These rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and [PL 2007, c. 545, §2 (AMD).]

G. Provide consolidated mental health crisis services for children and adults, beginning March 1, 2009, through a memorandum of understanding among providers of mental health services in the network that must include provisions to ensure coordination, eliminate duplication and provide a level of crisis services established by the department. [PL 2007, c. 545, §3 (NEW).]

[PL 2007, c. 545, §§1-3 (AMD).]

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

A. Aroostook County; [PL 2007, c. 286, §8 (NEW).]

B. Hancock County, Washington County, Penobscot County and Piscataquis County; [PL 2007, c. 286, §8 (NEW).]

C. Kennebec County and Somerset County; [PL 2007, c. 286, §8 (NEW).]

D. Knox County, Lincoln County, Sagadahoc County and Waldo County; [PL 2007, c. 286, §8 (NEW).]

E. Androscoggin County, Franklin County and Oxford County; [PL 2007, c. 286, §8 (NEW).]

F. Cumberland County; and [PL 2007, c. 286, §8 (NEW).]

G. York County. [PL 2007, c. 286, §8 (NEW).]

[PL 2007, c. 286, §8 (NEW).]

2. Accountability.

[PL 2007, c. 286, §8 (RP).]

3. Public outreach.

[PL 2007, c. 286, §8 (RP).]

4. Participation.

[PL 2007, c. 286, §8 (RP).]

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

[PL 2007, c. 286, §8 (AMD).]

SECTION HISTORY

PL 1995, c. 691, §7 (NEW). PL 1997, c. 423, §§1,2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 286, §8 (AMD). PL 2007, c. 545, §§1-3 (AMD).

§3609. Statewide quality improvement council

The commissioner shall designate persons to be members to serve on a statewide quality improvement council to advise the commissioner on issues of system implementation that have statewide impact. The commissioner shall appoint such other members to serve on the council as required by law. [PL 2007, c. 286, §9 (AMD).]

SECTION HISTORY

PL 1995, c. 691, §7 (NEW). PL 2007, c. 286, §9 (AMD).

§3610. Safety net services

The department is responsible for providing a safety net of adult mental health services for people with major mental illness who the department or its designee determines can not otherwise be served by the community service networks. The department may develop contracts to deliver safety net services if the department determines contracts to be appropriate and cost-effective. The state-operated safety net must include, but is not limited to: [PL 2007, c. 286, §10 (AMD).]

0. (Repealed)

A. [PL 1997, c. 683, Pt. A, §19 (RP).]

B. [PL 1997, c. 683, Pt. A, §19 (RP).]

C. [PL 1997, c. 683, Pt. A, §19 (RP).]

D. [PL 1997, c. 683, Pt. A, §19 (RP).]

E. [PL 1997, c. 683, Pt. A, §19 (RP).]

1. Beds. Backup emergency hospital beds for people requiring medical stabilization, assessment or treatment;
[PL 1997, c. 683, Pt. A, §19 (RPR).]

2. Treatment. Intermediate and long-term treatment for people who need long-term structured care;
[PL 1997, c. 683, Pt. A, §19 (RPR).]

3. Forensic services. Forensic services;
[PL 1997, c. 683, Pt. A, §19 (RPR).]

4. Intensive case management. Intensive case management; and
[PL 1997, c. 683, Pt. A, §19 (RPR).]

5. Other services. Other services determined by the commissioner to be needed.
[PL 1997, c. 683, Pt. A, §19 (RPR).]

SECTION HISTORY

PL 1997, c. 423, §3 (NEW). PL 1997, c. 683, Pt. A, §19 (RPR). PL 2007, c. 286, §10 (AMD).

§3611. Consumer Council System of Maine

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

1. Independent public instrumentality. The council system exists as an independent public instrumentality of the State to provide guidance and advice from consumers of adult mental health services provided or funded by the State regarding the delivery of effective and appropriate adult mental health services consistent with the State's comprehensive mental health services plan and to comply

with the consent decree and incorporated settlement agreement in the case of Paul Bates, et al. v. Robert Glover, et al., Kennebec County Superior Court, Civil Action Docket No. CV-89-88 dated August 2, 1990.
[PL 2007, c. 592, §2 (NEW).]

2. Governmental functions; tort claims. Exercise of the powers conferred by this section is the performance of an essential governmental function. The council system must be considered as within the definition of "State" for the purposes of Title 14, section 8102, subsection 4. The council system is not considered an agency of the State for the purposes of budgeting, accounts and control, auditing, contracting and purchasing.
[PL 2007, c. 592, §2 (NEW).]

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

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

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

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

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

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

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

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

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

4. Powers. The council system may:

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

B. Reimburse members of the Statewide Consumer Council established in subsection 6 and local council members who are not otherwise fully reimbursed for expenses of participating in council system meetings from the council system budget in an amount up to the legislative per diem rate for participation in Statewide Consumer Council and local council meetings, plus reimbursement for reasonable and necessary expenses actually incurred, including but not limited to costs incurred for travel, child care for the member's child and substitute care for dependent adults. A standard

statewide rate of reimbursement, including reduced reimbursement for a member entitled to partial reimbursement from any other source, must be approved by the Statewide Consumer Council. To the extent allowable under federal law, reimbursement under this paragraph may not be counted as income, resources or assets for the purposes of determining eligibility for benefits under any state or municipal program of assistance or health coverage for which a council member may be eligible; [PL 2007, c. 592, §2 (NEW).]

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

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

[PL 2007, c. 592, §2 (NEW).]

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

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

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

[PL 2007, c. 592, §2 (NEW).]

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

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

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

C. The Statewide Consumer Council shall:

(1) Convene at least 4 regular meetings per year and special meetings as the Statewide Consumer Council determines necessary;

(2) Establish an application procedure by which the Statewide Consumer Council may recognize a local council;

(3) Determine the timing of and procedures for elections by local councils to elect representatives to the Statewide Consumer Council;

(4) Apportion the number of representatives each local council will have on the Statewide Consumer Council; and

(5) Adopt policies and procedures regarding removal for good cause of a Statewide Consumer Council member. [PL 2007, c. 592, §2 (NEW).]

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

(1) To receive, review and distribute the recommendations of the local councils and prepare the council system's annual report and any interim reports;

(2) To develop a mechanism for communication with department personnel that ensures timely responses to issues and concerns identified by the council system and that provides a formal means of communication with the commissioner and high-level department personnel;

(3) To advise and engage in dialogue with the department concerning oversight, evaluation, unmet needs, quality assurance and quality improvement, design of new program initiatives and prioritization of programming; and

(4) To oversee and manage the council system, including assumption of responsibility for the development of local councils in unrepresented areas. [PL 2007, c. 592, §2 (NEW).]

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

(1) Require that local councils file with the Statewide Consumer Council periodic reports and maintain records of meetings and business conducted, a list of members elected to the Statewide Consumer Council and leadership and financial records; and

(2) Require that the Statewide Consumer Council file with the department periodic reports and maintain records of meetings and business conducted, policies and procedures adopted and financial records as required by contract with the department. [PL 2007, c. 592, §2 (NEW).]
[PL 2007, c. 592, §2 (NEW).]

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

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

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

(1) To reach out to all persons in the surrounding community to encourage participation in the local council, to stimulate and receive local consumer advice and to gain awareness of local concerns, needs and ideas, including identifying concerns of persons who do not usually participate in the local council meetings;

(2) To advocate for and provide advice regarding local response to local issues;

(3) To advise the department, State Government and independent contractors on local responses to local issues through communication with the Statewide Consumer Council;

(4) To elect representatives to the Statewide Consumer Council; and

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

8. Funding. Funding for the council system must be included as part of the Governor's proposed budget for the department. The council system may accept gifts, grants and other funds and contributions for use in performing the duties of the council system as long as such gifts, grants, funds and contributions are in accordance with state laws prohibiting conflicts of interest.
[PL 2007, c. 592, §2 (NEW).]

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

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

B. A person may not be excluded from the council system or discriminated against within the council system by reason of actual or perceived race, color, sex, sexual orientation, gender identity, marital status, homelessness, physical or mental disability, religion, ancestry or national origin, age, familial status or status as a consumer of mental health services. [PL 2021, c. 553, §22 (AMD).]

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

[PL 2021, c. 553, §22 (AMD).]

SECTION HISTORY

PL 2007, c. 592, §2 (NEW). PL 2021, c. 366, §32 (AMD). PL 2021, c. 553, §22 (AMD).

§3612. Municipal notification

With regard to residential services for persons committed to the custody of the commissioner pursuant to Title 15, chapter 5, 120 days prior to the opening of a residential facility by the department or to signing a contract with a community agency to provide a community-based residential facility, the department shall provide the specific location and detailed information to the municipality in which the facility is to be located. The department shall review any response or site alternatives provided by municipal officials prior to the opening of the facility or signing of the contract. [PL 2013, c. 357, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 357, §1 (NEW).

§3613. Crisis receiving centers

(CONFLICT)

(WHOLE SECTION CONFLICT: Text as repealed and replaced by PL 2025, c. 388, Pt. YY, §1)

1. Definitions. As used in this section, unless the context otherwise indicates, "crisis receiving center" means a center that provides immediate and short-term walk-in access to an array of both clinical and nonclinical mental health and substance use disorder crisis stabilization services to all individuals seeking care regardless of acuity or insurance coverage and within bounds of licensing.

A. [PL 2025, c. 388, Pt. YY, §1 (RP).]

B. [PL 2025, c. 388, Pt. YY, §1 (RP).]

[PL 2025, c. 388, Pt. YY, §1 (RPR).]

2. Department to develop plan and serve as coordinator. The department shall develop a plan for a network of community-based crisis receiving centers across the State to support both clinical and nonclinical mental health and substance use disorder crisis stabilization services. The department shall also coordinate meetings, technical assistance and training and provide other assistance to help create, maintain and, as necessary, expand the network.

[PL 2025, c. 388, Pt. YY, §1 (RPR).]

3. Guidelines. In carrying out its duties under subsection 2, the department shall:

A. Consult with law enforcement agencies, municipalities, public health experts, behavioral health care providers, other states and others as appropriate; [PL 2025, c. 388, Pt. YY, §1 (RPR).]

B. Assess geographical locations for maximization of community impact; [PL 2025, c. 388, Pt. YY, §1 (RPR).]

C. Provide technical assistance to persons and entities across the State and providers interested in joining the network; [PL 2025, c. 388, Pt. YY, §1 (RPR).]

D. Coordinate regular meetings with crisis receiving centers and provide technical assistance to crisis receiving centers; and [PL 2025, c. 388, Pt. YY, §1 (RPR).]

E. Engage in continual process improvement and planning updates. [PL 2025, c. 388, Pt. YY, §1 (RPR).]

[PL 2025, c. 388, Pt. YY, §1 (RPR).]

REVISOR'S NOTE: §3613. Crisis receiving centers (As enacted by PL 2023, c. 675, §9 is REALLOCATED TO TITLE 34-B, SECTION 3614)

SECTION HISTORY

PL 2023, c. 643, Pt. KKK, §1 (NEW). PL 2023, c. 643, Pt. EEEE, §1 (NEW). PL 2023, c. 643, Pt. EEEE, §3 (AFF). PL 2023, c. 675, §9 (NEW). PL 2025, c. 2, Pt. R, §1 (AMD). PL 2025, c. 388, Pt. YY, §1 (RPR).

§3613. Crisis receiving centers

(CONFLICT)

(WHOLE SECTION CONFLICT: Text as repealed by PL 2025, c. 390, Pt. A, §55)

(REPEALED)

REVISOR'S NOTE: §3613. Crisis receiving centers (As enacted by PL 2023, c. 675, §9 is REALLOCATED TO TITLE 34-B, SECTION 3614)

SECTION HISTORY

PL 2023, c. 643, Pt. KKK, §1 (NEW). PL 2025, c. 390, Pt. A, §55 (RP).

§3614. Crisis receiving centers

(CONFLICT)

(WHOLE SECTION CONFLICT: Text as reallocated by PL 2025, c. 390, Pt. A, §56)

(REALLOCATED FROM TITLE 34-B, SECTION 3613)

1. Definition. As used in this section, unless the context otherwise indicates, "crisis receiving center" means a center that provides immediate and short-term walk-in access to an array of both clinical and nonclinical mental health and substance use disorder crisis stabilization services to all individuals seeking care regardless of severity or insurance coverage and within bounds of licensing.
[PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

2. Department to develop plan and serve as coordinator. The department shall develop a plan for a network of community-based crisis receiving centers across the State to support both clinical and nonclinical mental health and substance use disorder crisis stabilization services. The department shall also coordinate meetings, technical assistance and training and provide other assistance to help create, maintain and, as necessary, expand the network.
[PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

3. Guidelines. In carrying out its duties under subsection 2, the department shall:

A. Consult with law enforcement agencies, municipalities, public health experts, behavioral health care providers, other states and others as appropriate; [PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

B. Assess geographical locations for maximization of community impact; [PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

C. Provide technical assistance to persons and entities across the State and providers interested in joining the network; [PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

D. Coordinate regular meetings with crisis receiving centers and provide technical assistance to crisis receiving centers; and [PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

E. Engage in continual process improvement and planning updates. [PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

[PL 2023, c. 675, §9 (NEW); PL 2025, c. 390, Pt. A, §56 (RAL).]

SECTION HISTORY

PL 2023, c. 675, §9 (NEW). PL 2025, c. 390, Pt. A, §56 (RAL).

ARTICLE 2

CRISIS INTERVENTION PROGRAM

§3621. Crisis Intervention Program established

The department shall establish the Crisis Intervention Program to serve Penobscot, Hancock, Piscataquis and Washington Counties. This shall be a community-based program to provide counseling, consultation, evaluation, treatment and referral, education and training services, delivered by a crisis intervention team. The program shall provide the following services: [PL 1987, c. 349, Pt. H, §21 (NEW).]

1. Emergency room services. Crisis intervention and psychiatric emergency services based in a hospital emergency room;
[PL 1987, c. 349, Pt. H, §21 (NEW).]

2. Outreach services. Outreach services and crisis intervention beyond the hospital setting; and
[PL 1987, c. 349, Pt. H, §21 (NEW).]

3. Telephone hot-line services. A community-based telephone crisis intervention hot-line offering 24-hour, 7-days-a-week counseling, consultation, evaluation, treatment and referral services.
[PL 1987, c. 349, Pt. H, §21 (NEW).]

SECTION HISTORY

PL 1987, c. 349, §H21 (NEW).

§3622. Crisis intervention team

1. Established. A community-based crisis intervention team shall be established to provide crisis intervention on a 24-hour, 7-days-a-week basis to mentally ill people and to provide crisis intervention training for emergency room personnel.
[PL 1987, c. 349, Pt. H, §21 (NEW).]

2. Qualifications. The team shall be comprised of qualified mental health professionals with training and experience in assessment and intervention with mentally ill people in a crisis. In addition, the team members shall have a working knowledge of case management, the mental health system and area resources.
[PL 1987, c. 349, Pt. H, §21 (NEW).]

SECTION HISTORY

PL 1987, c. 349, §H21 (NEW).

§3623. Region II Crisis Intervention Program Advisory Board

(REPEALED)

SECTION HISTORY

PL 1987, c. 349, §H21 (NEW). PL 1989, c. 163 (AMD). PL 1991, c. 824, §A70 (RP).

§3624. Region III Crisis Intervention Program Advisory Board

(REPEALED)

SECTION HISTORY

PL 1993, c. 360, §A2 (NEW). PL 1995, c. 560, §K36 (AMD). PL 1999, c. 668, §125 (RP).

SUBCHAPTER 4

HOSPITALIZATION

ARTICLE 1

GENERAL PROVISIONS

§3801. Definitions

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

1. Hospital.

[PL 2007, c. 319, §1 (RP).]

1-A. Designated nonstate mental health institution. "Designated nonstate mental health institution" means a nonstate mental health institution that is under contract with the department for receipt by the hospital of involuntary patients.
[PL 1995, c. 496, §1 (NEW).]

1-B. Least restrictive form of transportation. "Least restrictive form of transportation" means the vehicle used for transportation and any restraining devices that may be used during transportation that impose the least amount of restriction, taking into consideration the stigmatizing impact upon the individual being transported.
[PL 1997, c. 422, §4 (NEW).]

2. Licensed physician. "Licensed physician" means a person licensed under the laws of the State to practice medicine or osteopathy or a medical officer of the Federal Government while in this State in the performance of official duties.
[RR 2019, c. 2, Pt. B, §94 (COR).]

3. Licensed clinical psychologist. "Licensed clinical psychologist" means a person licensed under the laws of the State as a psychologist and who practices clinical psychology.
[PL 1983, c. 459, §7 (NEW).]

4. Likelihood of serious harm.

[PL 2009, c. 651, §3 (RP).]

4-A. Likelihood of serious harm. "Likelihood of serious harm" means:

A. A substantial risk of physical harm to the person as manifested by recent threats of, or attempts at, suicide or serious self-inflicted harm; [PL 2009, c. 651, §4 (NEW).]

B. A substantial risk of physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct placing others in reasonable fear of serious physical harm; [PL 2009, c. 651, §4 (NEW).]

C. A reasonable certainty that the person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the person adequately from impairment or injury; or [PL 2009, c. 651, §4 (NEW).]

D. For the purposes of section 3873-A, in view of the person's treatment history, current behavior and inability to make an informed decision, a reasonable likelihood that the person's mental health will deteriorate and that the person will in the foreseeable future pose a likelihood of serious harm as defined in paragraphs A, B or C. [PL 2009, c. 651, §4 (NEW).]

[PL 2009, c. 651, §4 (NEW).]

4-B. Medical practitioner. "Medical practitioner" or "practitioner" means a licensed physician, licensed physician associate, certified psychiatric clinical nurse specialist, certified nurse practitioner or licensed clinical psychologist.

[PL 2019, c. 627, Pt. B, §20 (AMD); PL 2025, c. 316, §3 (REV).]

5. Mentally ill person. "Mentally ill person" means a person having a psychiatric or other disease that substantially impairs that person's mental health or creates a substantial risk of suicide. "Mentally ill person" includes persons suffering effects from the use of drugs, narcotics, hallucinogens or intoxicants, including alcohol. A person with developmental disabilities or a person diagnosed as a sociopath is not for those reasons alone a mentally ill person.

[PL 2009, c. 651, §6 (AMD).]

6. Nonstate mental health institution. "Nonstate mental health institution" means a public institution, a private institution or a mental health center, which is administered by an entity other than the State and which is equipped to provide inpatient care and treatment for the mentally ill.

[PL 1983, c. 459, §7 (NEW).]

7. Patient. "Patient" means a person under observation, care or treatment in a psychiatric hospital or residential care facility pursuant to this subchapter, a person receiving services from an assertive community treatment team, a person receiving intensive mental health management services from the department or a person being evaluated for emergency admission under section 3863 in a hospital emergency department.

[PL 2009, c. 651, §7 (AMD).]

7-A. Progressive treatment program. "Progressive treatment program" or "program" means a program of court-ordered services provided to participants under section 3873-A.

[PL 2009, c. 651, §8 (AMD).]

7-B. Psychiatric hospital. "Psychiatric hospital" means:

A. A state mental health institute; [PL 2009, c. 651, §9 (AMD).]

B. A nonstate mental health institution; or [PL 2009, c. 651, §9 (AMD).]

C. A designated nonstate mental health institution. [PL 2009, c. 651, §9 (NEW).]

[PL 2009, c. 651, §9 (AMD).]

7-C. Prescriber. "Prescriber" means a licensed health care provider with authority to prescribe, including a licensed physician, certified nurse practitioner or licensed physician associate who has training or experience in psychopharmacology.

[PL 2021, c. 540, §1 (NEW); PL 2025, c. 316, §3 (REV).]

8. Residential care facility. "Residential care facility" means a licensed or approved boarding care, nursing care or foster care facility which supplies supportive residential care to individuals due to their mental illness.

[PL 1983, c. 459, §7 (NEW).]

8-A. Severe and persistent mental illness. "Severe and persistent mental illness" means a diagnosis of one or more qualifying mental illnesses or disorders plus a listed disability or functional

impairment that has persisted continuously or intermittently or is expected to persist for at least one year as a result of that disease or disorder. The qualifying mental illnesses or disorders are schizophrenia, schizoaffective disorder or other psychotic disorder, major depressive disorder, bipolar disorder or a combination of mental disorders sufficiently disabling to meet the criteria of functional disability. The listed disabilities or functional impairments, which must result from a diagnosed qualifying mental illness or disorder, include inability to adequately manage one's own finances, inability to perform activities of daily living and inability to behave in ways that do not bring the attention of law enforcement for dangerous acts or for acts that manifest the person's inability to protect the person from harm.
[PL 2005, c. 519, Pt. BBBB, §3 (NEW); PL 2005, c. 519, Pt. BBBB, §20 (AFF).]

9. State mental health institute. "State mental health institute" means the Riverview Psychiatric Center or the Dorothea Dix Psychiatric Center.
[PL 1983, c. 459, §7 (NEW); PL 2005, c. 236, §§3, 4 (REV).]

10. Inability to make an informed decision. "Inability to make an informed decision" means being unable to make a responsible decision whether to accept or refuse a recommended treatment as a result of lack of mental capacity to understand sufficiently the benefits and risks of the treatment after a thorough and informative explanation has been given by a qualified mental health professional.
[PL 2005, c. 519, Pt. BBBB, §3 (NEW); PL 2005, c. 519, Pt. BBBB, §20 (AFF).]

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 prescriber, registered nurse or licensed practical nurse, certified rehabilitation counselor or certified employment specialist, a peer recovery specialist and a substance 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.
[PL 2021, c. 540, §2 (AMD).]

12. Electronic endorsement. "Electronic endorsement" has the same meaning as "electronic signature" in Title 4, section 17, subsection 18, paragraph A.
[PL 2023, c. 66, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1995, c. 496, §1 (AMD). PL 1997, c. 422, §4 (AMD). PL 2005, c. 236, §§3,4 (REV). PL 2005, c. 519, §§BBBB1-3 (AMD). PL 2005, c. 519, §BBBB20 (AFF). PL 2007, c. 319, §§1-3 (AMD). PL 2009, c. 651, §§3-9 (AMD). PL 2017, c. 407, Pt. A, §159 (AMD). PL 2019, c. 627, Pt. B, §20 (AMD). RR 2019, c. 2, Pt. B, §94 (COR). PL 2021, c. 540, §§1, 2 (AMD). PL 2023, c. 66, §1 (AMD). PL 2025, c. 316, §3 (REV).

§3802. Commissioner's powers

The commissioner may: [PL 1983, c. 459, §7 (NEW).]

1. Rules. Adopt such rules, not inconsistent with this subchapter, as the commissioner may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill;
[RR 2019, c. 2, Pt. B, §95 (COR).]

2. Investigation. Investigate, by personal visit, complaints made by any patient or by any person on behalf of a patient;
[PL 1983, c. 459, §7 (NEW).]

3. Visitation. Visit each psychiatric hospital or residential care facility regularly to review the commitment procedures of all new patients admitted between visits and visit other hospitals as necessary to review protocols and procedures related to certification of patients under section 3863;
[PL 2007, c. 319, §4 (AMD).]

4. Reports. Require reports from the chief administrative officer of any hospital or residential care facility relating to the admission, examination, diagnosis, release or discharge of any patient; and
[PL 1983, c. 459, §7 (NEW).]

5. Forms. Prescribe the form of applications, records, reports and medical certificates provided for under this subchapter and prescribe the information required to be contained in them.
[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2007, c. 319, §4 (AMD). RR 2019, c. 2, Pt. B, §95 (COR).

§3803. Patient's rights

A patient in a psychiatric hospital or residential care facility under this subchapter has the following rights. [PL 2007, c. 319, §5 (AMD).]

1. Civil rights. Every patient is entitled to exercise all civil rights, including, but not limited to, the right to civil service status, the right to vote, rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, the right to enter into contractual relationships and the right to manage the patient's property, unless:

A. The chief administrative officer of the psychiatric hospital or residential care facility determines that it is necessary for the medical welfare of the patient to impose restrictions on the exercise of these rights and, if restrictions are imposed, the restrictions and the reasons for them must be made a part of the clinical record of the patient; [PL 2007, c. 319, §5 (AMD).]

B. A patient has been adjudicated incompetent and has not been restored to legal capacity; or [PL 1983, c. 459, §7 (NEW).]

C. The exercise of these rights is specifically restricted by other statute or rule, but not solely because of the fact of admission to a psychiatric hospital or residential care facility. [PL 2007, c. 319, §5 (AMD).]
[PL 2007, c. 319, §5 (AMD).]

2. Humane care and treatment. Every patient is entitled to humane care and treatment and, to the extent that facilities, equipment and personnel are available, to medical care and treatment in accordance with the highest standards accepted in medical practice.
[PL 1983, c. 459, §7 (NEW).]

3. Restraints and seclusion. Restraint, including any mechanical means of restricting movement, and seclusion, including isolation by means of doors that cannot be opened by the patient, may not be used on a patient, unless the chief administrative officer of the psychiatric hospital or residential care facility or the chief administrative officer's designee determines that either is required by the medical needs of the patient.

A. The chief administrative officer of the psychiatric hospital or facility shall record and make available for inspection every use of mechanical restraint or seclusion and the reasons for its use. [PL 2007, c. 319, §5 (AMD).]

B. The limitation of the use of seclusion in this section does not apply to maximum security installations. [PL 1983, c. 459, §7 (NEW).]

[PL 2007, c. 319, §5 (AMD).]

4. Communication. Patient communication rights are as follows.

A. Every patient is entitled to communicate by sealed envelopes with the department, a member of the clergy of the patient's choice, the patient's attorney and the court that ordered the patient's hospitalization, if any. [PL 2007, c. 319, §5 (AMD).]

B. Every patient is entitled to communicate by mail in accordance with the rules of the psychiatric hospital. [PL 2007, c. 319, §5 (AMD).]

[PL 2007, c. 319, §5 (AMD).]

5. Visitors. Every patient is entitled to receive visitors unless definitely contraindicated by the patient's medical condition, except that the patient may be visited by a member of the clergy of the patient's choice or the patient's attorney at any reasonable time.

[PL 2007, c. 319, §5 (AMD).]

6. Sterilization. A patient may not be sterilized except in accordance with chapter 7.

[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2007, c. 319, §5 (AMD).

§3804. Habeas corpus

Any person detained pursuant to this subchapter is entitled to the writ of habeas corpus, upon proper petition by the person or by a friend to any justice generally empowered to issue the writ of habeas corpus in the county in which the person is detained. [RR 2019, c. 2, Pt. B, §96 (COR).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). RR 2019, c. 2, Pt. B, §96 (COR).

§3805. Prohibited acts; penalty

1. Unwarranted hospitalization. A person is guilty of causing unwarranted hospitalization if that person willfully causes the unwarranted hospitalization of any person under this subchapter.

[RR 2019, c. 2, Pt. B, §97 (COR).]

2. Denial of rights. A person is guilty of causing a denial of rights if that person willfully causes the denial to any person of any of the rights accorded by this subchapter.

[RR 2019, c. 2, Pt. B, §98 (COR).]

3. Penalty. Causing unwarranted hospitalization or causing a denial of rights is a Class C crime.

[PL 2017, c. 475, Pt. C, §11 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2017, c. 475, Pt. C, §11 (AMD). RR 2019, c. 2, Pt. B, §§97, 98 (COR).

ARTICLE 2

VOLUNTARY HOSPITALIZATION

§3831. Admission

A psychiatric hospital may admit on an informal voluntary basis for care and treatment of a mental illness any person desiring admission or the adult ward of a legally appointed guardian, subject to the following conditions. [PL 2007, c. 319, §6 (AMD).]

1. Availability of accommodations. Except in cases of medical emergency, voluntary admission is subject to the availability of suitable accommodations.
[PL 1983, c. 459, §7 (NEW).]

2. Standard hospital information. Standard hospital information may be elicited from the person if, after examination, the chief administrative officer of the psychiatric hospital determines the person suitable for admission, care and treatment.
[PL 2007, c. 319, §6 (AMD).]

3. Persons under 18 years of age. Any person under 18 years of age must have the consent of the person's parent or guardian.
[PL 2007, c. 319, §6 (AMD).]

4. State mental health institute. Any person under 18 years of age must have the consent of the commissioner for admission to a state mental health institute.
[PL 1983, c. 459, §7 (NEW).]

5. Adults under guardianship. An adult ward may be admitted on an informal voluntary basis only if the adult ward's legally appointed guardian consents to the admission and the ward makes no objection to the admission.
[PL 2007, c. 319, §6 (AMD).]

6. Adults with advance health care directives. An adult with an advance health care directive authorizing psychiatric hospital treatment may be admitted on an informal voluntary basis if the conditions specified in the advance health care directive for the directive to be effective are met in accordance with the method stated in the advance health care directive or, if no such method is stated, as determined by a physician or a psychologist. If no conditions are specified in the advance health care directive as to how the directive becomes effective, the person may be admitted on an informal voluntary basis if the person has been determined to be incapacitated pursuant to Title 18-C, Article 5, Part 8. A person may be admitted only if the person does not at the time object to the admission or, if the person does object, if the person has directed in the advance health care directive that admission to the psychiatric hospital may occur despite that person's objections. The duration of the stay in the psychiatric hospital of a person under this subsection may not exceed 5 working days. If at the end of that time the chief administrative officer of the psychiatric hospital recommends further hospitalization of the person, the chief administrative officer shall proceed in accordance with section 3863, subsection 5-A.

This subsection does not create an affirmative obligation of a psychiatric hospital to admit a person consistent with the person's advance health care directive. This subsection does not create an affirmative obligation on the part of the psychiatric hospital or treatment provider to provide the treatment consented to in the person's advance health care directive if the physician or psychologist evaluating or treating the person or the chief administrative officer of the psychiatric hospital determines that the treatment is not in the best interest of the person.
[PL 2017, c. 402, Pt. C, §95 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 415, §§1,2 (AMD). PL 1999, c. 423, §3 (AMD). PL 2007, c. 319, §6 (AMD). PL 2009, c. 651, §10 (AMD). PL 2017, c. 402, Pt. C, §95 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§3832. Freedom to leave

1. Patient's right. A patient admitted under section 3831 is free to leave the psychiatric hospital at any time after admission within 16 hours of the patient's request unless application for admission of the person under section 3863 is initiated within that time.
[PL 2007, c. 319, §7 (AMD).]

2. Notice. The chief administrative officer of the psychiatric hospital shall cause every patient admitted under section 3831 to be informed, at the time of admission, of:

A. The patient's status as an informally admitted patient; and [PL 2007, c. 319, §7 (AMD).]

B. The patient's freedom to leave the psychiatric hospital under this section. [PL 2007, c. 319, §7 (AMD).]
[PL 2007, c. 319, §7 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §10 (AMD). PL 2005, c. 519, §BBBB4 (AMD). PL 2005, c. 519, §BBBB20 (AFF). PL 2007, c. 319, §7 (AMD).

ARTICLE 3

INVOLUNTARY HOSPITALIZATION

§3861. Reception of involuntary patients

1. Nonstate mental health institution. The chief administrative officer of a nonstate mental health institution may receive for observation, diagnosis, care and treatment in the institution any person whose admission is applied for under any of the procedures in this subchapter. An admission may be made under the provisions of section 3863 only if the certifying examination conducted pursuant to section 3863, subsection 2 was completed no more than 2 days before the date of admission.

A. The institution, any person contracting with the institution and any of its employees when admitting, treating or discharging a patient under the provisions of sections 3863 and 3864 under a contract with the department, for purposes of civil liability, must be deemed to be a governmental entity or an employee of a governmental entity under the Maine Tort Claims Act, Title 14, chapter 741. [PL 1989, c. 906 (NEW).]

B. Patients with a diagnosis of mental illness or psychiatric disorder in nonstate mental health institutions that contract with the department under this subsection are entitled to the same rights and remedies as patients in state mental health institutes as conferred by the constitution, laws, regulations and rules of this State and of the United States. [PL 1989, c. 906 (NEW).]

C. Before contracting with and approving the admission of involuntary patients to a nonstate mental health institution, the department shall require the institution to:

(1) Comply with all applicable regulations;

(2) Demonstrate the ability of the institution to comply with judicial decrees as those decrees relate to services already being provided by the institution; and

(3) Coordinate and integrate care with other community-based services. [PL 1989, c. 906 (NEW).]

D. Beginning July 31, 1990, the capital, licensing, remodeling, training and recruitment costs associated with the start-up of beds designated for involuntary patients under this section must be reimbursed, within existing resources, of the Department of Health and Human Services. [PL

1989, c. 906 (NEW); PL 1995, c. 560, Pt. K, §82 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

E. The chief administrative officer of a nonstate mental health institution shall provide notice to the department and such additional information as may be requested by the department when a person who was involuntarily admitted to the institution has died, attempted suicide or sustained a serious injury resulting in significant impairment of physical condition. For the purposes of this paragraph, "significant impairment" includes serious injuries resulting from burns, lacerations, bone fractures, substantial hematoma and injuries to internal organs whether self-inflicted or inflicted by another person. The notice must be provided within 24 hours of occurrence and must include the name of the person; the name, address and telephone number of that person's legal guardian, conservator or legal representative and parents if that person is a minor; a detailed description of the occurrence and any injuries or impairments sustained; the date and time of the occurrence; the name, street address and telephone number of the facility; and the name and job title of the person providing the notice. [PL 2007, c. 89, §2 (NEW).]

[PL 2007, c. 89, §2 (AMD).]

2. State mental health institute. The chief administrative officer of a state mental health institute:

A. May receive for observation, diagnosis, care and treatment in the state mental health institute any person whose admission is applied for under section 3831 or 3863 if the certifying examination conducted pursuant to section 3863, subsection 2 was completed no more than 2 days before the date of admission; and [PL 2007, c. 319, §8 (AMD).]

B. May receive for observation, diagnosis, care and treatment in the state mental health institute any person whose admission is applied for under section 3864 or is ordered by a court. [PL 2007, c. 319, §8 (AMD).]

Any business entity contracting with the department for psychiatric physician services or any person contracting with a state mental health institute or the department to provide services pertaining to the admission, treatment or discharge of patients under sections 3863 and 3864 within a state mental health institute or any person contracting with a business entity to provide those services within a state mental health institute is deemed to be a governmental entity or an employee of a governmental entity for purposes of civil liability under the Maine Tort Claims Act, Title 14, chapter 741, with respect to the admission, treatment or discharge of patients within a state mental health institute under sections 3863 and 3864.

[PL 2007, c. 319, §8 (AMD).]

3. Involuntary treatment. Except for involuntary treatment ordered pursuant to the provisions of section 3864, subsection 7-A, involuntary treatment of a patient at a designated nonstate mental health institution or a state mental health institute who is an involuntarily committed patient under the provisions of this subchapter may be ordered and administered only in conformance with the provisions of this subsection. For the purposes of this subsection, involuntary treatment is limited to medication for the treatment of mental illness and laboratory testing and medication for the monitoring and management of side effects.

A. If the patient's primary treating physician proposes a treatment that the physician, in the exercise of professional judgment, believes is in the best interest of the patient and if the patient lacks clinical capacity to give informed consent to the proposed treatment and the patient is unwilling or unable to comply with the proposed treatment, the patient's primary treating physician shall request in writing a clinical review of the proposed treatment by a clinical review panel. For a patient at a state mental health institute, the request must be made to the superintendent of the institute or the designee of the superintendent. For a patient at a designated nonstate mental health institution, the request must be made to the chief administrative officer or the designee of the chief administrative officer. The request must include the following information:

(1) The name of the patient, the patient's diagnosis and the unit on which the patient is hospitalized;

(2) The date that the patient was committed to the institution or institute and the period of the court-ordered commitment;

(3) A statement by the primary treating physician that the patient lacks capacity to give informed consent to the proposed treatment. The statement must include documentation of a 2nd opinion that the patient lacks that capacity, given by a professional qualified to issue such an opinion who does not provide direct care to the patient but who may work for the institute or institution;

(4) A description of the proposed course of treatment, including specific medications, routes of administration and dose ranges, proposed alternative medications or routes of administration, if any, and the circumstances under which any proposed alternative would be used;

(5) A description of how the proposed treatment will benefit the patient and ameliorate identified signs and symptoms of the patient's psychiatric illness;

(6) A listing of the known or anticipated risks and side effects of the proposed treatment and how the prescribing physician will monitor, manage and minimize the risks and side effects;

(7) Documentation of consideration of any underlying medical condition of the patient that contraindicates the proposed treatment; and

(8) Documentation of consideration of any advance health care directive given in accordance with Title 18-C, section 5-803 and any declaration regarding medical treatment of psychotic disorders executed in accordance with section 11001. [PL 2017, c. 402, Pt. C, §96 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The provisions of this paragraph apply to the appointment, duties and procedures of the clinical review panel under paragraph A.

(1) Within one business day of receiving a request under paragraph A, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall appoint a clinical review panel of 2 or more licensed professional staff who do not provide direct care to the patient. At least one person must be a professional licensed to prescribe medication relevant to the patient's care and treatment. At the time of appointment of the clinical review panel, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall notify the following persons in writing that the clinical review panel will be convened:

(a) The primary treating physician;

(b) The commissioner or the commissioner's designee;

(c) The patient's designated representative or attorney, if any;

(d) The State's designated federal protection and advocacy agency; and

(e) The patient. Notice to the patient must inform the patient that the clinical review panel will be convened and of the right to assistance from a lay advisor, at no expense to the patient, and the right to obtain an attorney at the patient's expense. The notice must include contact information for requesting assistance from a lay advisor, who may be employed by the institute or institution, and access to a telephone to contact a lay advisor must be provided to the patient.

(2) Within 4 days of receiving a request under paragraph A and no less than 24 hours before the meeting of the clinical review panel, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall provide notice of the date, time and location of the meeting to the patient's primary treating physician, the patient and any lay advisor or attorney.

(3) The clinical review panel shall hold the meeting and any additional meetings as necessary, reach a final determination and render a written decision ordering or denying involuntary treatment.

(a) At the meeting, the clinical review panel shall receive information relevant to the determination of the patient's capacity to give informed consent to treatment and the need for treatment, review relevant portions of the patient's medical records, consult with the physician requesting the treatment, review with the patient that patient's reasons for refusing treatment, provide the patient and any lay advisor or attorney an opportunity to ask questions of anyone presenting information to the clinical review panel at the meeting and determine whether the requirements for ordering involuntary treatment have been met.

(b) All meetings of the clinical review panel must be open to the patient and any lay advisor or attorney, except that any meetings held for the purposes of deliberating, making findings and reaching final conclusions are confidential and not open to the patient and any lay advisor or attorney.

(c) The clinical review panel shall conduct its review in a manner that is consistent with the patient's rights.

(d) Involuntary treatment may not be approved and ordered if the patient affirmatively demonstrates to the clinical review panel that if that patient possessed capacity, the patient would have refused the treatment on religious grounds or on the basis of other previously expressed convictions or beliefs.

(4) The clinical review panel may approve a request for involuntary treatment and order the treatment if the clinical review panel finds, at a minimum:

(a) That the patient lacks the capacity to make an informed decision regarding treatment;

(b) That the patient is unable or unwilling to comply with the proposed treatment;

(c) That the need for the treatment outweighs the risks and side effects; and

(d) That the proposed treatment is the least intrusive appropriate treatment option.

(5) The clinical review panel may make additional findings, including but not limited to findings that:

(a) Failure to treat the illness is likely to produce lasting or irreparable harm to the patient; or

(b) Without the proposed treatment the patient's illness or involuntary commitment may be significantly extended without addressing the symptoms that cause the patient to pose a likelihood of serious harm.

(6) The clinical review panel shall document its findings and conclusions, including whether the potential benefits of the proposed treatment outweigh the potential risks. [PL 2011, c. 657, Pt. DD, §1 (AMD).]

C. The provisions of this paragraph govern the rights of a patient who is the subject of a clinical review panel under paragraph A.

(1) The patient is entitled to the assistance of a lay advisor without expense to the patient. The patient is entitled to representation by an attorney at the patient's expense.

(2) The patient may review any records or documents considered by the clinical review panel.

(3) The patient may provide information orally and in writing to the clinical review panel and may present witnesses.

(4) The patient may ask questions of any person who provides information to the clinical review panel.

(5) The patient and any lay advisor or attorney may attend all meetings of the clinical review panel except for any private meetings authorized under paragraph B, subparagraph 3, division (b). [PL 2007, c. 580, §2 (NEW).]

D. If the clinical review panel under paragraph A approves the request for involuntary treatment, the clinical review panel shall enter an order for the treatment in the patient's medical records and immediately notify the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution. The order takes effect:

(1) For a patient at a state mental health institute, one business day from the date of entry of the order; or

(2) For a patient at a designated nonstate mental health institution, one business day from the date of entry of the order, except that if the patient has requested review of the order by the commissioner under paragraph F, subparagraph (2), the order takes effect one business day from the day on which the commissioner or the commissioner's designee issues a written decision. [PL 2011, c. 657, Pt. DD, §2 (AMD).]

E. The order for treatment under this subsection remains in effect for 120 days or until the end of the period of commitment, whichever is sooner, unless altered by:

(1) An agreement to a different course of treatment by the primary treating physician and patient;

(2) For a patient at a designated nonstate mental health institution, modification or vacation of the order by the commissioner or the commissioner's designee; or

(3) An alteration or stay of the order entered by the Superior Court after reviewing the entry of the order by the clinical review panel on appeal under paragraph F. [PL 2011, c. 657, Pt. DD, §3 (AMD).]

F. The provisions of this paragraph apply to the review and appeal of an order of the clinical review panel entered under paragraph B.

(1) The order of the clinical review panel at a state mental health institute is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

(2) The order of the clinical review panel at a designated nonstate mental health institution may be reviewed by the commissioner or the commissioner's designee upon receipt of a written request from the patient submitted no later than one business day after the patient receives the order of the clinical review panel. Within 3 business days of receipt of the request for review, the designated nonstate mental health institution shall submit the full clinical review panel record to the commissioner or the commissioner’s designee. Within 3 business days of receipt of the request for review, the patient and the designated nonstate mental health institution may submit written arguments to the commissioner or the commissioner's designee. The commissioner or the commissioner's designee shall review the full clinical review panel record and any written arguments submitted pursuant to this subparagraph for abuse of discretion,

error of law or findings not supported by substantial evidence in the record. Within 3 business days of the receipt of the full clinical review panel record and any written arguments, the commissioner or the commissioner's designee shall issue a decision. The decision of the commissioner or the commissioner's designee may affirm the order, modify the order or vacate the order. The decision of the commissioner or the commissioner's designee takes effect one business day after the commissioner or the commissioner's designee issues a written decision. The decision of the commissioner or the commissioner's designee is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure. [PL 2021, c. 165, §1 (AMD).]

[PL 2021, c. 165, §1 (AMD).]

4. Emergency involuntary treatment. Nothing in this section precludes a medical practitioner from administering involuntary treatment to a person who is being held or detained by a hospital against the person's will under the provisions of this subchapter, if the following conditions are met:

A. As a result of mental illness, the person poses a serious and immediate risk of harm to that person or others; [PL 2015, c. 309, §1 (NEW).]

B. The person lacks the decisional capacity either to provide informed consent for treatment or to make an informed refusal of treatment; [PL 2015, c. 309, §1 (NEW).]

C. A person legally authorized to provide consent for treatment on behalf of the person is not reasonably available under the circumstances; [PL 2015, c. 309, §1 (NEW).]

D. The treatment being administered is a currently recognized standard of treatment for treating the person's mental illness and is the least restrictive form of treatment appropriate in the circumstances; [PL 2015, c. 309, §1 (NEW).]

E. For purposes of evaluation for emergency involuntary treatment, the medical practitioner considers available history and information from other sources, including, but not limited to, family members, that are considered reliable by the examiner; and [PL 2015, c. 309, §1 (NEW).]

F. A reasonable person concerned for the welfare of the person would conclude that the benefits of the treatment outweigh the risks and potential side effects of the treatment and would consent to the treatment under the circumstances. [PL 2015, c. 309, §1 (NEW).]

[PL 2015, c. 309, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1989, c. 906 (AMD). RR 1993, c. 2, §36 (COR). PL 1993, c. 336, §1 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 154, §1 (AMD). PL 1997, c. 422, §5 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 89, §2 (AMD). PL 2007, c. 319, §8 (AMD). PL 2007, c. 580, §2 (AMD). PL 2007, c. 695, Pt. M, §1 (AMD). PL 2011, c. 657, Pt. DD, §§1-4 (AMD). PL 2015, c. 309, §1 (AMD). PL 2017, c. 402, Pt. C, §96 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 165, §1 (AMD).

§3861-A. Notification of hospitalization

When a person who is hospitalized in a psychiatric hospital under the provisions of this chapter is sentenced to serve a straight term of imprisonment or a split sentence in a county jail, the chief administrative officer of the hospital shall notify the sheriff of the county jail so that, in accordance with the provisions of Title 15, section 2211-A, the sheriff may process the person to serve the sentence while hospitalized and the person may remain in the hospital until ready for discharge. [PL 2009, c. 281, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 281, §2 (NEW).

§3862. Protective custody

1. Law enforcement officer's power. If a law enforcement officer has probable cause to believe that a person may be mentally ill and that due to that condition the person poses a likelihood of serious harm as defined in section 3801, subsection 4-A, paragraph A, B or C, or if a law enforcement officer knows that a person has an advance health care directive authorizing mental health treatment and the officer has probable cause to believe that the person lacks capacity, the law enforcement officer:

A. May take the person into protective custody; and [PL 1983, c. 459, §7 (NEW).]

B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination by a medical practitioner as provided in section 3862-A or 3863 or, for a person taken into protective custody who has an advance health care directive authorizing mental health treatment, for examination as provided in Title 18-C, section 5-803, subsection 4 to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective. [PL 2019, c. 411, Pt. C, §5 (AMD); PL 2019, c. 411, Pt. D, §3 (AFF).]

When formulating probable cause, the law enforcement officer may rely upon information provided by a 3rd-party informant if the officer confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person poses a likelihood of serious harm as defined in section 3801, subsection 4-A, paragraph A, B or C.
[PL 2021, c. 377, §1 (AMD).]

1-A. Law enforcement officer's power.
[PL 1995, c. 62, §2 (RP).]

2. Certificate not executed. If a certificate relating to the person's likelihood of serious harm is not executed by the examiner under section 3863, and, for a person who has an advance health care directive authorizing mental health treatment, if the examiner determines that the conditions specified in the advance health care directive for the directive to be effective have not been met or, in the absence of stated conditions, that the person does not lack capacity, the officer shall:

A. Release the person from protective custody and, with the person's permission, return the person forthwith to the person's place of residence, if within the territorial jurisdiction of the officer; [PL 1999, c. 423, §4 (AMD).]

B. Release the person from protective custody and, with the person's permission, return the person forthwith to the place where the person was taken into protective custody; or [PL 1999, c. 423, §4 (AMD).]

C. If the person is also under arrest for a violation of law, retain the person in custody until the person is released in accordance with the law. [PL 1999, c. 423, §4 (AMD).]
[PL 1999, c. 423, §4 (AMD).]

3. Certificate executed. If the certificate is executed by the examiner under section 3863, the officer shall undertake forthwith to secure the endorsement of a judicial officer under section 3863 and may detain the person for a period of time not to exceed 18 hours as may be necessary to obtain that endorsement.
[PL 2009, c. 651, §12 (AMD).]

3-A. Advance health care directive effect. If the examiner determines that the conditions specified in the advance health care directive for the directive to be effective have been met or, in the absence of stated conditions, that the person lacks capacity, the person may be treated in accordance with the terms of the advance health care directive.
[PL 1999, c. 423, §4 (NEW).]

4. Transportation costs. The costs of transportation under this section must be paid in the manner provided under section 3863. Any person transporting an individual to a hospital under the circumstances described in this section shall use the least restrictive form of transportation available that meets the security needs of the situation.
[PL 1997, c. 422, §7 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 596, §§1,2 (AMD). PL 1993, c. 596, §4 (AFF). PL 1995, c. 62, §§1,2 (AMD). PL 1997, c. 422, §§6,7 (AMD). PL 1997, c. 438, §1 (AMD). PL 1997, c. 683, §A20 (AMD). PL 1999, c. 423, §4 (AMD). PL 2007, c. 178, §1 (AMD). PL 2009, c. 651, §§11, 12 (AMD). PL 2017, c. 402, Pt. C, §97 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 411, Pt. C, §5 (AMD). PL 2019, c. 411, Pt. D, §3 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 377, §1 (AMD).

§3862-A. Extreme risk protection orders

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

A. "Dangerous weapon" or "weapon" has the same meaning as in Title 17-A, section 2, subsection 9, paragraph C, including a firearm as defined in Title 17-A, section 2, subsection 12-A. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

B. "Extended restrictions" means the continued threat-based restrictions imposed by the court pursuant to subsection 6, paragraph D. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

C. "Initial restrictions" means the immediate and temporary 30-day threat-based restrictions pursuant to subsection 4. [PL 2023, c. 675, §11 (AMD).]

D. "Judicial hearing" means a court hearing under subsection 6. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

E. "Law enforcement agency" has the same meaning as in Title 25, section 3701, subsection 1. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

F. "Law enforcement officer" means a person vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes, and who possesses a current and valid certificate issued pursuant to Title 25, section 2803-A. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

G. "Likelihood of foreseeable harm" means a substantial risk in the foreseeable future of serious physical harm to the person as manifested by recent behaviors or threats of, or attempts at, suicide or serious self-inflicted harm; or a substantial risk in the foreseeable future of serious physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct or statements placing others in reasonable fear of serious physical harm. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

H. "Medical practitioner" has the same meaning as in section 3801, subsection 4-B. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

I. "Prohibited person" means a person subject to Title 15, section 393, subsection 1, paragraph E-1 or E-2. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

J. "Protective custody" means protective custody under section 3862. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

K. "Restricted person" means a person taken into protective custody by a law enforcement officer who the officer has probable cause to believe possesses or controls or may acquire a dangerous

weapon and who is found by a medical practitioner to present a likelihood of foreseeable harm. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

L. "Threat-based restriction" means a prohibition on a restricted person from purchasing, possessing or controlling or attempting to purchase, possess or control a dangerous weapon during the period of the restriction. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

[PL 2023, c. 675, §11 (AMD).]

2. Assessment by a medical practitioner; security; immunity. This subsection applies when a law enforcement officer has taken a person into protective custody.

A. Notwithstanding any provision of law to the contrary, the law enforcement officer shall provide to the medical practitioner the information that led to the protective custody including, but not limited to, the information that gave rise to the probable cause determination, the person's pertinent criminal history record information and other known history and recent or recurring actions and behaviors. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

B. The medical practitioner under this subsection shall assess whether the person presents a likelihood of foreseeable harm. In assessing the person, a medical practitioner may consult with other medical professionals as the medical practitioner determines advisable. If the medical practitioner finds that the person can benefit from treatment and services, the medical practitioner shall refer the person to treatment and services. The medical practitioner may rely on information provided by a 3rd party if it reasonably appears that the 3rd party has had recent personal observations of or conversations with the person being assessed. [PL 2023, c. 675, §12 (AMD).]

C. Notwithstanding any provision of law to the contrary, an assessment pursuant to this section may be performed at a health care facility or, when available and as appropriate, may be performed at an alternative location. The assessment may be facilitated using telehealth technology. If the assessment is provided at a health care facility, law enforcement shall, upon request of the facility and consistent with section 3863, subsection 2-A, absent compelling circumstances, assist the facility with the security of the person awaiting the assessment under this section. [PL 2023, c. 675, §13 (AMD).]

C-1. The assessment required by this subsection must be performed while the person being assessed remains in protective custody, except that the assessment may be performed within 24 hours after the person is released from protective custody if:

(1) The protective custody stemmed from a law enforcement officer's probable cause to believe the person may be mentally ill and presents a likelihood of serious harm because the person possesses, controls or may acquire a dangerous weapon; and

(2) An examination under section 3863 has occurred. [PL 2023, c. 675, §14 (NEW).]

D. A juvenile, as defined in Title 15, section 3003, subsection 14, who is subject to this section may be accompanied at the assessment by a parent, guardian, grandparent, aunt or uncle or a sibling who has attained the age of 18, whose company is requested by the juvenile, who is timely available and whose accompaniment is practicable. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

E. A medical practitioner and any other medical or mental health professional consulted by the medical practitioner are not liable in a civil action brought by any person for any act performed in good faith in execution of the obligations imposed on medical practitioners by this section, including any decision regarding the affirmative or negative assessment of the likelihood of foreseeable harm. The immunity provided in this paragraph also applies to a principal if the medical practitioner or professional is acting as an agent or employee of the principal. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

[PL 2023, c. 675, §§12-14 (AMD).]

2-A. Protective custody warrant for purposes of conducting an assessment. If a law enforcement officer is unable to take a person into protective custody to conduct an assessment under this section, the law enforcement officer may apply for a protective custody warrant. The officer must submit an affidavit of probable cause for a protective custody warrant to a Justice of the Superior Court, a Judge of the District Court or a justice of the peace.

The justice, judge or justice of the peace shall issue a protective custody warrant and promptly transmit that warrant to the officer for execution upon finding the affidavit under this subsection is sufficient to establish:

A. Probable cause to believe that the person may be mentally ill and due to that condition presents a likelihood of serious harm; [PL 2023, c. 675, §15 (NEW).]

B. Probable cause to believe that the person possesses, controls or may acquire a dangerous weapon; and [PL 2023, c. 675, §15 (NEW).]

C. That the officer has made reasonable attempts to take the person into custody without a warrant. [PL 2023, c. 675, §15 (NEW).]

A warrant transmitted by facsimile machine or an electronic warrant transmitted by secure electronic means has the same legal effect and validity as an original endorsement signed by the justice, judge or justice of the peace. The electronic protective custody warrant or paper protective custody warrant may be executed by a law enforcement officer authorized to take the person into protective custody as provided in section 3862, subsection 1, paragraph B.
[PL 2023, c. 675, §15 (NEW).]

3. Notification by medical practitioner and judicial endorsement. A medical practitioner shall notify in writing the law enforcement officer or law enforcement agency that took the person into protective custody under section 3862, subsection 1, paragraph B that, based on the assessment, the person is found to present a likelihood of foreseeable harm. If so notified, the law enforcement officer or law enforcement agency shall as soon as practicable seek endorsement by a Justice of the Superior Court, a Judge of the District Court or a justice of the peace of the medical practitioner's assessment and law enforcement's declarations that the person was taken into protective custody and that the law enforcement officer has probable cause to believe that the person possesses, controls or may acquire a dangerous weapon. The justice or judge shall promptly transmit to the law enforcement officer or agency the decision to endorse or not endorse. A decision transmitted electronically has the same legal effect and validity as a signed original. An endorsement must authorize law enforcement to execute the authority in subsection 4. This section may not be construed to prevent law enforcement from accepting a voluntary surrender of dangerous weapons.
[PL 2023, c. 675, §16 (AMD).]

4. Initial restrictions; notice by law enforcement. A person whose assessment is endorsed by a judicial officer under subsection 3 becomes, at the time of notice by a law enforcement officer under paragraph B, a restricted person subject to initial restrictions and subject to the prohibitions in Title 15, section 393, subsection 1, paragraphs E-1 and E-2 as follows:

A. The restricted person, after notice under paragraph B:

(1) Is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;

(2) Shall immediately and temporarily surrender any weapons possessed, controlled or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and

(3) Has a right to a judicial hearing within 30 days of notice under paragraph B; and [PL 2023, c. 675, §17 (AMD).]

B. A law enforcement officer shall, as soon as practicable after the judicial endorsement, unless the restricted person is medically incapacitated, in which case within 48 hours after the law enforcement officer has been notified that the person is no longer medically incapacitated:

(1) Notify the restricted person that the restricted person:

(a) Is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;

(b) Is required to immediately and temporarily surrender any weapons possessed, controlled or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and

(c) Has a right to a judicial hearing within 30 days of the notice under this paragraph;

(2) Notify the contact person, if any, disclosed by the restricted person to the medical practitioner and the district attorney in the district where the person was taken into protective custody of the person's restricted status;

(3) Report the person's restricted status to the Department of Public Safety as soon as practicable; and

(4) Provide a copy to the court of the notification to the restricted person, including the date of notification. [PL 2023, c. 675, §17 (AMD).]

[PL 2023, c. 675, §17 (AMD).]

5. Temporary surrender to law enforcement. A law enforcement agency may store, or make arrangements with another law enforcement agency or federally licensed firearms dealer to store, and care for the weapons surrendered by a restricted person in the manner provided in subsection 7. A restricted person who makes all practical, immediate efforts to comply with a surrender notice under subsection 4 is not subject to arrest or prosecution as a prohibited person under Title 15, section 393, subsection 1, paragraph E-1 or E-2. If a law enforcement agency has probable cause to believe the restricted person possesses or controls but has not surrendered a weapon, law enforcement may, prior to or as part of a judicial hearing, search for and seize such a weapon when authorized by a judicially issued warrant or other circumstances approved by law.

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

6. Judicial hearing. A judicial hearing under this section is governed by this subsection.

A. Within 14 days of the date of the notice given to a restricted person under subsection 4, paragraph B, the court shall schedule a hearing in the district where the person was taken into protective custody and provide notice of the hearing to the restricted person and the district attorney at least 7 days prior to the hearing. The restricted person has the right to be represented by counsel at the hearing, and the court may appoint counsel for an indigent party. Upon a showing of good cause, the court may extend the time to hold the hearing. [PL 2023, c. 675, §18 (AMD).]

B. Within 30 days of the notice given under subsection 4, the court shall hold a hearing to determine whether to dissolve or extend the initial restrictions. Upon a showing of good cause, the court may extend the time to hold the hearing. In the hearing determining whether to dissolve or extend the initial restrictions, the district attorney has the burden to prove by clear and convincing evidence that the restricted person presents a likelihood of foreseeable harm. [PL 2023, c. 675, §19 (AMD).]

C. In determining whether there are grounds to extend the initial restrictions, the court shall consider all relevant evidence, including, but not limited to, recent threats or acts of violence by

the restricted person directed toward other persons; recent threats or acts of violence by the restricted person directed toward the restricted person; recent acts of unlawful abuse of animals by the restricted person; the reckless use or threatening display of a dangerous weapon by the restricted person; a history of the use, attempted use or threatened use of physical force by the restricted person against other persons; a record of prior custodial events or restrictions under this section; prior involuntary confinement of the restricted person in a hospital for persons with psychiatric disabilities; prior protection from abuse and protection from harassment orders against the restricted person or violations regarding protection from abuse or protection from harassment by the restricted person; evidence of stalking behavior, severe obsession or sexual violence by the restricted person; the illegal use of controlled substances by the restricted person; and evidence of alcohol or drug abuse by the restricted person. The court may consider affidavits and other reliable hearsay in making this determination. The court shall also consider whether the restricted person is receiving treatment responsive to that person's mental health or substance use needs. [PL 2023, c. 675, §20 (AMD).]

D. This paragraph governs court orders.

(1) If the court finds after hearing that there is not clear and convincing evidence to continue or extend the initial restrictions, the court shall dissolve the initial restrictions and order the return of any weapons surrendered or seized. The court shall direct the Department of Public Safety to remove the record of restrictions from the department's pertinent database when developed by the department.

(2) If the court finds after hearing that there is clear and convincing evidence to continue or extend the initial restrictions, the court shall inform the restricted person that the restricted person is prohibited for up to one year from purchasing, possessing or controlling any dangerous weapon or attempting to purchase, possess or control any dangerous weapon. The court shall further order the person to immediately surrender dangerous weapons possessed or controlled by that person to a law enforcement officer and notify the Department of Public Safety for entry in the pertinent database when developed by the department.

(3) Extended restrictions imposed under this paragraph expire according to the terms of the court's order. The court shall schedule a hearing within 45 days prior to the expiration of the order to determine if the order should be extended. The district attorney has the burden of proving that the restricted person continues to pose a likelihood of foreseeable harm. If, after a hearing, the court finds by clear and convincing evidence that the restricted person continues to pose a likelihood of foreseeable harm, the court shall renew the extended restrictions for up to one year. If the court does not so find, the court shall deny the petition and order the return of any weapons surrendered or seized. Upon motion by the State, the court may for cause shown order that the restricted person be examined for assessment of whether the restricted person continues to pose a likelihood of foreseeable harm. The fees or expenses for an assessment pursuant to this subparagraph may be paid from the Extradition and Prosecution Expenses Account established by Title 15, section 224-A.

(4) A restricted person may file one motion for dissolution during an extended restriction. For that motion, the restricted person has the burden of proving by clear and convincing evidence that the restricted person no longer poses a likelihood of foreseeable harm.

(5) A court shall electronically update or transmit to the Department of Public Safety, Bureau of State Police an abstract of the order issued by the court pursuant to this section that includes a prohibition on the possession of a dangerous weapon within 72 hours of the order's being issued. The abstract must include the name, date of birth and gender of the person who is the subject of the order; the court's order and the expiration date of that order; and a notation that the person has been notified by the court.

The abstract required by this subparagraph is confidential and is not a public record as defined in Title 1, chapter 13; however, the information contained in the abstract or a copy of the abstract may be provided by the Department of Public Safety to a criminal justice agency for law enforcement purposes, to the Federal Bureau of Investigation, National Instant Criminal Background Check System or to an issuing authority for the purpose of processing concealed firearm permit applications. The Department of Public Safety shall, when the pertinent database is developed, request that the Federal Bureau of Investigation ensure that, immediately after the order expires, the National Instant Criminal Background Check System no longer reflects that expired order as a ground for prohibiting the subject of the order from possessing or acquiring a firearm. For the purposes of this subsection, "criminal justice agency" means a federal, state, tribal, district, county or local government agency or any subunit of those entities that performs the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies, as is any equivalent agency at any level of Canadian government.

(6) Nothing in this subsection may be construed to prevent the restricted person, district attorney and court from accepting a court-ordered disposition to which each agrees. [PL 2023, c. 675, §21 (AMD).]

[PL 2023, c. 675, §§18-21 (AMD).]

7. Weapons storage and return. A law enforcement agency may store, or make arrangements with another law enforcement agency or federally licensed firearms dealer to store, any weapon surrendered to or seized by law enforcement under this section for as long as the threat-based restrictions are in effect. The duties and liability of a law enforcement agency with respect to handling and storage of a weapon surrendered or seized are governed by Title 25, section 2804-C, subsection 2-C. A weapon surrendered to or seized by a law enforcement agency must be returned to the restricted person when the threat-based restrictions expire. If a seized or surrendered weapon remains unclaimed for 6 months after the expiration or dissolution of threat-based restrictions, the law enforcement agency may dispose of the weapon consistent with Title 25, section 3503-A.

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

8. Offense. Possession of a dangerous weapon by a restricted person is a Class D crime.

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

SECTION HISTORY

PL 2019, c. 411, Pt. A, §1 (NEW). PL 2019, c. 411, Pt. D, §3 (AFF). PL 2023, c. 675, §§10-21 (AMD).

§3863. Emergency procedure

A person may be admitted to a psychiatric hospital on an emergency basis according to the following procedures. [PL 2007, c. 319, §9 (AMD).]

1. Application. Any health officer, law enforcement officer or other person may apply to admit a person to a psychiatric hospital, subject to the prohibitions and penalties of section 3805, stating:

A. The applicant's belief that the person is mentally ill and, because of the person's illness, poses a likelihood of serious harm; and [PL 2009, c. 651, §13 (AMD).]

B. The grounds for this belief. [PL 1983, c. 459, §7 (NEW).]

[PL 2009, c. 651, §13 (AMD).]

2. Certifying examination. The written application must be accompanied by a dated certificate, signed by a medical practitioner stating:

A. That the practitioner has examined the person on the date of the certificate; [PL 2009, c. 651, §14 (AMD).]

B. That the medical practitioner is of the opinion that the person is mentally ill and, because of that illness, poses a likelihood of serious harm. The written certificate must include a description of the grounds for that opinion. The opinion may be based on personal observation or on history and information from other sources considered reliable by the examiner, including, but not limited to, family members; and [PL 2015, c. 309, §2 (AMD).]

C. That adequate community resources are unavailable for care and treatment of the person's mental illness. [PL 2015, c. 309, §2 (AMD).]

D. [PL 2015, c. 309, §2 (RP).]

[PL 2015, c. 309, §2 (AMD).]

2-A. Custody agreement. A state, county or municipal law enforcement agency may meet with representatives of those public and private health practitioners and health care facilities that are willing and qualified to perform the certifying examination required by this section in order to attempt to work out a procedure for the custody of the person who is to be examined while that person is waiting for that examination. Any agreement must be written and signed by and filed with all participating parties. In the event of failure to work out an agreement that is satisfactory to all participating parties, the procedures of section 3862 and this section continue to apply.

As part of an agreement the law enforcement officer requesting certification may transfer protective custody of the person for whom the certification is requested to another law enforcement officer, a health officer if that officer agrees or the chief administrative officer of a public or private health practitioner or health facility or the chief administrative officer's designee. Any arrangement of this sort must be part of the written agreement between the law enforcement agency and the health practitioner or health care facility. In the event of a transfer, the law enforcement officer seeking the transfer shall provide the written application required by this section.

A person with mental illness may not be detained or confined in any jail or local correctional or detention facility, whether pursuant to the procedures described in section 3862, pursuant to a custody agreement or under any other circumstances, unless that person is being lawfully detained in relation to or is serving a sentence for commission of a crime.

[PL 2007, c. 319, §9 (AMD).]

3. Judicial review. The application and accompanying certificate must be reviewed by a Justice of the Superior Court, Judge of the District Court, Judge of Probate or a justice of the peace, who may review the original application and accompanying certificate or a secure electronic or facsimile transmission of them.

A. If the judge or justice finds the application and accompanying certificate to be regular and in accordance with the law, the judge or justice shall endorse them and promptly send them to the admitting psychiatric hospital. For purposes of carrying out the provisions of this section, an endorsement transmitted by facsimile machine or an electronic endorsement transmitted by secure electronic means has the same legal effect and validity as an original endorsement signed by the judge or justice. [PL 2023, c. 66, §2 (AMD).]

B. A person may not be held against the person's will in a hospital under this section, except that a person for whom an examiner has executed the certificate under subsection 2 may be detained in a hospital for a reasonable period of time, not to exceed 24 hours, pending endorsement by a judge or justice, if:

(1) For a person informally admitted under section 3831, the chief administrative officer of the psychiatric hospital undertakes to secure the endorsement immediately upon execution of the certificate by the examiner; and

(2) For a person sought to be involuntarily admitted under this section, the person or persons seeking the involuntary admission undertake to secure the endorsement immediately upon execution of the certificate by the examiner. [PL 2007, c. 319, §9 (AMD).]

C. Notwithstanding paragraph B, subparagraphs (1) and (2), a person sought to be admitted informally under section 3831 or involuntarily under this section may be transported to a psychiatric hospital and held there for evaluation and treatment pending judicial endorsement of the application and certificate if the endorsement is obtained between the soonest available hours of 7:00 a.m. and 11:00 p.m. [PL 2007, c. 319, §9 (AMD).]

D. A person who has been held against that person's will for no more than 24 hours pursuant to paragraph B may be held for a reasonable additional period of time, not to exceed 48 hours, if:

(1) The hospital has had an evaluation of the person conducted by an appropriately designated individual and that evaluation concludes that the person poses a likelihood of serious harm due to mental illness;

(2) The hospital, after undertaking its best efforts, has been unable to locate an available inpatient bed at a psychiatric hospital or other appropriate alternative; and

(3) The hospital has notified the department of the name of the person, the location of the person, the name of the appropriately designated individual who conducted the evaluation pursuant to subparagraph (1) and the time the person first presented to the hospital. [PL 2015, c. 309, §3 (NEW).]

E. If a person remains in a hospital for the full 48 hours allowed under paragraph D, the person may be held for one additional 48-hour period, if:

(1) The hospital satisfies again the requirements of paragraph D; and

(2) The department provides its best efforts to find an inpatient bed at a psychiatric hospital or other appropriate alternative. [PL 2015, c. 309, §3 (NEW).]

[PL 2023, c. 66, §2 (AMD).]

4. Custody and transportation. Custody and transportation under this section are governed as follows.

A. Upon endorsement of the application and certificate by the judge or justice, a law enforcement officer or other person designated by the judge or justice may take the person into custody and transport that person to the psychiatric hospital designated in the application. Transportation of an individual to a psychiatric hospital under these circumstances must involve the least restrictive form of transportation available that meets the clinical needs of that individual. [PL 2007, c. 319, §9 (AMD).]

B. The Department of Health and Human Services is responsible for any reasonable transportation expenses under this section, including return from the psychiatric hospital if admission is declined. The department shall utilize any 3rd-party payment sources that are available. [PL 2015, c. 309, §4 (AMD).]

C. When a person who is under a sentence or lawful detention related to commission of a crime and who is incarcerated in a jail or local correctional or detention facility is admitted to a psychiatric hospital under any of the procedures in this subchapter, the county where the incarceration originated shall pay all expenses incident to transportation of the person between the psychiatric hospital and the jail or local correctional or detention facility. [PL 2007, c. 319, §9 (AMD).]

[PL 2015, c. 309, §4 (AMD).]

5. Continuation of hospitalization.

[PL 2009, c. 651, §15 (RP).]

5-A. Continuation of hospitalization. If there is need for further hospitalization of the person as determined by the chief administrative officer of the hospital, the chief administrative officer shall first determine if the person may be informally admitted under section 3831. If informal admission is not suitable or is refused by the person, the chief administrative officer may seek involuntary commitment in accordance with this subsection.

A. If the person is at a state mental health institute, the chief administrative officer may seek involuntary commitment by applying for an order under section 3864. [PL 2009, c. 651, §16 (NEW).]

B. If the person is at a designated nonstate mental health institution, the chief administrative officer may seek involuntary commitment only by requesting the commissioner to apply for an order under section 3864. [PL 2009, c. 651, §16 (NEW).]

C. An application under this subsection must be made to the District Court having territorial jurisdiction over the psychiatric hospital to which the person is admitted on an emergency basis and must be filed within 3 days from the date of admission of the patient under this section, except that, if the 3rd day falls on a weekend or holiday, the application must be filed on the next business day following that weekend or holiday. If no application to the District Court is timely filed, the person must be promptly discharged. [PL 2009, c. 651, §16 (NEW).]

[PL 2009, c. 651, §16 (NEW).]

6. Notice. Upon admission of a person under this section, and after consultation with the person, the chief administrative officer of the psychiatric hospital shall notify, as soon as possible regarding the fact of admission, the person's:

A. Guardian, if known; [PL 1997, c. 422, §12 (AMD).]

B. Spouse; [PL 1997, c. 422, §12 (AMD).]

C. Parent; [PL 1997, c. 422, §12 (AMD).]

D. Adult child; or [PL 1997, c. 422, §12 (AMD).]

E. Either the next of kin or a friend, if no guardian or immediate family member is known or can be quickly located. [PL 2009, c. 651, §17 (AMD).]

If the chief administrative officer has reason to believe that notice to any individual in paragraphs A to E would pose risk of harm to the person admitted, then notice may not be given to that individual.
[PL 2009, c. 651, §17 (AMD).]

6-A. Notification to law enforcement of release after examination. When a person is taken by a law enforcement officer to a hospital for examination under this section and not admitted but released, the chief administrative officer of the hospital shall notify the law enforcement officer or the law enforcement officer’s agency of that release.
[PL 2009, c. 451, §10 (NEW).]

7. Post-admission examination. Every patient admitted to a psychiatric hospital under this section must be examined as soon as practicable after the patient's admission. If findings required for admission under subsection 2 are not certified in a 2nd opinion by a staff medical practitioner within 24 hours after admission, the person must be immediately discharged.

A. [PL 2009, c. 651, §18 (RP).]

B. [PL 2009, c. 651, §18 (RP).]

C. [PL 2009, c. 651, §18 (RP).]

[PL 2021, c. 389, §1 (AMD).]

7-A. Post-admission discharge. If it is necessary to discharge a person because findings required for admission under subsection 2 are not certified in a 2nd opinion by a staff medical practitioner after examination in accordance with subsection 7, the staff medical practitioner shall record the discharge on the written application, which must contain a statement that the findings required for the person's admission specified under subsection 2 were not met.
[PL 2021, c. 389, §2 (AMD).]

8. Rehospitalization from progressive treatment program. An ACT team practitioner or the commissioner may apply under this section to admit to a state mental health institute a patient who fails to fully participate in the progressive treatment program in accordance with section 3873-A.
[PL 2009, c. 651, §19 (AMD).]

9. Limitation. Admission to a psychiatric hospital on an emergency basis under the provisions of this section is not commitment to a psychiatric hospital.
[PL 2011, c. 541, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 815 (AMD). PL 1987, c. 736, §53 (AMD). PL 1989, c. 568, §§1,3 (AMD). PL 1993, c. 592, §1 (AMD). PL 1993, c. 596, §3 (AMD). PL 1995, c. 62, §3 (AMD). PL 1995, c. 143, §1 (AMD). PL 1995, c. 364, §1 (AMD). PL 1995, c. 496, §2 (AMD). PL 1995, c. 560, §K37 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 422, §§8-12 (AMD). PL 1997, c. 438, §2 (AMD). PL 1997, c. 683, §B23 (AMD). RR 2001, c. 2, §A43 (COR). PL 2001, c. 354, §3 (AMD). PL 2003, c. 206, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 519, §§BBBB5-8 (AMD). PL 2005, c. 519, §BBBB20 (AFF). PL 2007, c. 319, §9 (AMD). PL 2009, c. 276, §1 (AMD). PL 2009, c. 451, §10 (AMD). PL 2009, c. 651, §§13-19 (AMD). PL 2011, c. 541, §2 (AMD). PL 2015, c. 309, §§2-5 (AMD). PL 2021, c. 389, §§1, 2 (AMD). PL 2023, c. 66, §2 (AMD).

§3864. Judicial procedure and commitment

1. Application. An application to the District Court to admit a person to a psychiatric hospital, filed under section 3863, subsection 5-A, must be accompanied by:

A. The emergency application under section 3863, subsection 1; [PL 1983, c. 459, §7 (NEW).]

B. The accompanying certificate of the medical practitioner under section 3863, subsection 2; [PL 2009, c. 651, §20 (AMD).]

C. The certificate of the medical practitioner under section 3863, subsection 7; [PL 2021, c. 389, §3 (AMD).]

D. A written statement, signed by the chief administrative officer of the psychiatric hospital, certifying that a copy of the application and the accompanying documents have been given personally to the patient and that the patient and the patient's guardian or next of kin, if any, have been notified of:

(1) The patient's right to retain an attorney or to have an attorney appointed;

(2) The patient's right to select or to have the patient's attorney select an independent examiner; and

(3) How to contact the District Court; and [PL 2009, c. 651, §20 (AMD).]

E. A copy of the notice and instructions given to the patient. [PL 1997, c. 422, §14 (NEW).]
[PL 2021, c. 389, §3 (AMD).]

1-A. Involuntary treatment. An application under this section may also include a request for an order of involuntary treatment under subsection 7-A.
[PL 2007, c. 446, §2 (NEW); PL 2007, c. 446, §7 (AFF).]

2. Detention pending judicial determination. Notwithstanding any other provisions of this subchapter, a person, with respect to whom an application for the issuance of an order for hospitalization has been filed, may not be released or discharged during the pendency of the proceedings, unless:

A. The District Court orders release or discharge upon the request of the patient or the patient's guardian, parent, spouse or next of kin; [PL 2007, c. 319, §10 (AMD).]

B. The District Court orders release or discharge upon the report of the applicant that the person may be discharged with safety; [PL 1995, c. 496, §3 (AMD).]

C. A court orders release or discharge upon a writ of habeas corpus under section 3804; [PL 2015, c. 309, §6 (AMD).]

D. Upon request of the commissioner, the District Court orders the transfer of a patient in need of more specialized treatment to another psychiatric hospital. In the event of a transfer, the court shall transfer its file to the District Court having territorial jurisdiction over the receiving psychiatric hospital; or [PL 2015, c. 309, §7 (AMD).]

E. The person has capacity to make an informed decision for informal voluntary admission, agrees to informal voluntary admission and the chief administrative officer of the hospital determines that informal voluntary admission is suitable. [PL 2015, c. 309, §8 (NEW).]

[PL 2015, c. 309, §§6-8 (AMD).]

3. Notice of receipt of application. The giving of notice of receipt of application and date of hearing under this section is governed as follows.

A. Upon receipt by the District Court of the application and accompanying documents specified in subsection 1, the court shall cause written notice of the application and date of hearing:

(1) To be mailed within 2 days of filing to the person; and

(2) To be mailed to the person's guardian, if known, and to the person's spouse, parent or one of the person's adult children or, if none of these persons exist or if none of those persons can be located, to one of the person's next of kin or a friend, except that if the chief administrative officer has reason to believe that notice to any of these individuals would pose risk of harm to the person who is the subject of the application, notice to that individual may not be given. [PL 1997, c. 422, §15 (AMD).]

B. A docket entry is sufficient evidence that notice under this subsection has been given. [PL 1983, c. 459, §7 (NEW).]

[PL 1997, c. 422, §15 (AMD).]

4. Examination. Examinations under this section are governed as follows.

A. Upon receipt by the District Court of the application and the accompanying documents specified in subsection 1 and at least 3 days after the person who is the subject of the examination was notified by the psychiatric hospital of the proceedings and of that person's right to retain counsel or to select an examiner, the court shall cause the person to be examined by a medical practitioner. If the application includes a request for an order for involuntary treatment under subsection 7-A, the practitioner must be a medical practitioner who is qualified to prescribe medication relevant to the patient's care. If the person under examination or the counsel for that person selects a qualified examiner who is reasonably available, the court shall give preference to choosing that examiner. [PL 2009, c. 651, §21 (AMD).]

B. The examination must be held at a psychiatric hospital or at any other suitable place not likely to have a harmful effect on the mental health of the person. [PL 2009, c. 651, §21 (AMD).]

C. [PL 2007, c. 319, §10 (RP).]

D. [PL 2007, c. 319, §10 (RP).]

E. The examiner shall report to the court on:

(1) Whether the person is a mentally ill person within the meaning of section 3801, subsection 5;

(2) When the establishment of a progressive treatment plan under section 3873-A is at issue, whether a person is suffering from a severe and persistent mental illness within the meaning of section 3801, subsection 8-A;

(3) Whether the person poses a likelihood of serious harm within the meaning of section 3801, subsection 4-A;

(4) When involuntary treatment is at issue, whether the need for such treatment meets the criteria of subsection 7-A, paragraphs A and B;

(5) Whether adequate community resources are available for care and treatment of the person's mental illness; and

(6) Whether the person's clinical needs may be met by an order under section 3873-A to participate in a progressive treatment program. [PL 2009, c. 651, §21 (AMD).]

F. [PL 2007, c. 446, §3 (RP); PL 2007, c. 446, §7 (AFF).]

G. Opinions of the examiner may be based on personal observation or on history and information from other sources considered reliable by the examiner. [PL 2009, c. 651, §21 (NEW).]

[PL 2009, c. 651, §21 (AMD).]

5. Hearing. Hearings under this section are governed as follows.

A. The District Court shall hold a hearing on the application not later than 14 days from the date of the application. The District Court may separate the hearing on commitment from the hearing on involuntary treatment.

(1) For good cause shown, on a motion by any party or by the court on its own motion, the hearing on commitment or on involuntary treatment may be continued for a period not to exceed 21 additional days.

(2) If the hearing on commitment is not held within the time specified, or within the specified continuance period, the court shall dismiss the application and order the person discharged forthwith.

(2-A) If the hearing on involuntary treatment is not held within the time specified, or within the specified continuance period, the court shall dismiss the application for involuntary treatment.

(3) In computing the time periods set forth in this paragraph, the Maine Rules of Civil Procedure apply. [PL 2009, c. 651, §22 (AMD).]

A-1. Prior to the commencement of the hearing, the court shall inform the person that if an order of involuntary commitment is entered, that person is a prohibited person and may not own, possess or have under that person's control a firearm pursuant to Title 15, section 393, subsection 1. [PL 2007, c. 670, §18 (NEW).]

B. The hearing must be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have harmful effect on the mental health of the person. If the setting is outside the psychiatric hospital to which the patient is currently admitted, the Department of Health and Human Services shall bear the responsibility and expense of transporting the patient to and from the hearing. If the patient is to be admitted to a psychiatric hospital following the hearing, then the hospital from which the patient came shall transport the

patient to the admitting psychiatric hospital. If the patient is to be released following the hearing, then the hospital from which the patient came shall return the patient to that hospital or, at the patient's request, return the patient to the patient's place of residence. [PL 2007, c. 319, §10 (AMD).]

C. The court shall receive all relevant and material evidence that may be offered in accordance with accepted rules of evidence and accepted judicial dispositions.

(1) The person, the applicant and all other persons to whom notice is required to be sent must be afforded an opportunity to appear at the hearing to testify and to present and cross-examine witnesses.

(2) The court may, in its discretion, receive the testimony of any other person and may subpoena any witness. [PL 2007, c. 319, §10 (AMD).]

D. The person must be afforded an opportunity to be represented by counsel, and, if neither the person nor others provide counsel, the court shall appoint counsel for the person. [PL 2007, c. 319, §10 (AMD).]

E. In addition to proving that the patient is a mentally ill individual, the applicant must show:

(1) By evidence of the patient's recent actions and behavior, that due to the patient's mental illness the patient poses a likelihood of serious harm; and

(2) That, after full consideration of less restrictive treatment settings and modalities, inpatient hospitalization is the best available means for the treatment of the person. [PL 2005, c. 519, Pt. BBBB, §10 (AMD); PL 2005, c. 519, Pt. BBBB, §20 (AFF).]

F. In each case, the applicant shall submit to the court, at the time of the hearing, testimony, including expert psychiatric testimony, indicating the individual treatment plan to be followed by the psychiatric hospital staff, if the person is committed under this section, and shall bear any expense for witnesses for this purpose. [PL 2007, c. 319, §10 (AMD).]

G. A stenographic or electronic record must be made of the proceedings in all judicial hospitalization hearings.

(1) The record and all notes, exhibits and other evidence are confidential.

(2) The record and all notes, exhibits and other evidence must be retained as part of the District Court records for a period of 2 years from the date of the hearing. [PL 2007, c. 319, §10 (AMD).]

H. The hearing is confidential and a report of the proceedings may not be released to the public or press, except by permission of the person or the person's counsel and with approval of the presiding District Court Judge, except that the court may order a public hearing on the request of the person or the person's counsel. [PL 2007, c. 319, §10 (AMD).]

[PL 2009, c. 651, §22 (AMD).]

6. Court findings. Procedures dealing with the District Court's findings under this section are as follows.

A. The District Court shall so state in the record, if it finds upon completion of the hearing and consideration of the record:

(1) Clear and convincing evidence that the person is mentally ill and that the person's recent actions and behavior demonstrate that the person's illness poses a likelihood of serious harm;

(1-A) That adequate community resources for care and treatment of the person's mental illness are unavailable;

(2) That inpatient hospitalization is the best available means for treatment of the patient; and

(3) That it is satisfied with the individual treatment plan offered by the psychiatric hospital to which the applicant seeks the patient's involuntary commitment. [PL 2009, c. 651, §23 (AMD).]

B. If the District Court makes the findings in paragraph A, subparagraphs (1), (1-A) and (2), but is not satisfied with the individual treatment plan as offered, it may continue the case for not longer than 10 days, pending reconsideration and resubmission of an individual treatment plan by the psychiatric hospital. [PL 2009, c. 651, §23 (AMD).]

C. If the District Court makes the findings in section 3873-A, subsection 1, the court may issue an order under section 3873-A requiring the person to participate in a progressive treatment program. [PL 2009, c. 651, §23 (NEW).]

[PL 2009, c. 651, §23 (AMD).]

7. Commitment. Upon making the findings described in subsection 6, paragraph A, the court may order commitment to a psychiatric hospital for a period not to exceed 4 months in the first instance and not to exceed one year after the first and all subsequent hearings.

A. The court may issue an order of commitment immediately after the completion of the hearing, or it may take the matter under advisement and issue an order within 24 hours of the hearing. [PL 1983, c. 459, §7 (NEW).]

B. If the court does not issue an order of commitment within 24 hours of the completion of the hearing, it shall dismiss the application and order the patient discharged immediately. [PL 1995, c. 496, §6 (AMD).]

[PL 2009, c. 651, §24 (AMD).]

7-A. Involuntary treatment. This subsection governs involuntary treatment.

A. The court may grant a psychiatric hospital power to implement a recommended treatment plan without a person's consent for up to 120 days or until the end of the commitment, whichever is sooner, if upon application the court finds:

(1) That the person lacks the capacity to make an informed decision regarding treatment;

(2) That the person is unable or unwilling to comply with recommended treatment;

(3) That the need for the treatment outweighs the risks and side effects; and

(4) That the recommended treatment is the least intrusive appropriate treatment option.

Alternatively, the court may appoint a surrogate to make treatment decisions on the person's behalf for the duration of the commitment if the court is satisfied that the surrogate is suitable, willing and reasonably available to act in the person's best interests. [PL 2007, c. 446, §4 (NEW); PL 2007, c. 446, §7 (AFF).]

B. The need for involuntary treatment under paragraph A may be based on findings that include, but are not limited to, the following:

(1) That a failure to treat the illness is likely to produce lasting or irreparable harm to the person; or

(2) That without the recommended treatment the person's illness or involuntary commitment may be significantly extended without addressing the symptoms that cause the person to pose a likelihood of serious harm. [PL 2007, c. 446, §4 (NEW); PL 2007, c. 446, §7 (AFF).]

C. The parties may agree to change, terminate or extend the treatment plan during the time period of an order for involuntary treatment. [PL 2009, c. 651, §25 (AMD).]

D. For good cause shown, any party may apply to the court to change or terminate the treatment plan. [PL 2009, c. 651, §26 (AMD).]

[PL 2009, c. 651, §§25, 26 (AMD).]

8. Continued involuntary hospitalization. If the chief administrative officer of the psychiatric hospital to which a person has been committed involuntarily by the District Court recommends that continued involuntary hospitalization is necessary for that person, the chief administrative officer shall notify the commissioner. The commissioner may then, not later than 21 days prior to the expiration of a period of commitment ordered by the court, make application in accordance with this section to the District Court that has territorial jurisdiction over the psychiatric hospital designated for treatment in the application by the commissioner for a hearing to be held under this section.
[PL 2007, c. 319, §10 (AMD).]

9. Transportation. Except for transportation expenses paid by the District Court pursuant to subsection 10, a continued involuntary hospitalization hearing that requires transportation of the patient to and from any psychiatric hospital to a court that has committed the person must be provided at the expense of the Department of Health and Human Services. Transportation of an individual to a psychiatric hospital under these circumstances must involve the least restrictive form of transportation available that meets the clinical needs of that individual and be in compliance with departmental regulations.
[PL 2007, c. 319, §10 (AMD).]

10. Expenses. With the exception of expenses incurred by the applicant pursuant to subsection 5, paragraph F, the District Court is responsible for any expenses incurred under this section, including fees of appointed counsel, witness and notice fees and expenses of transportation for the person.
[PL 2007, c. 319, §10 (AMD).]

11. Appeals. A person ordered by the District Court to be committed to a psychiatric hospital may appeal from that order to the Superior Court.

A. The appeal is on questions of law only. [PL 1983, c. 459, §7 (NEW).]

B. Any findings of fact of the District Court may not be set aside unless clearly erroneous. [PL 1983, c. 459, §7 (NEW).]

C. The order of the District Court remains in effect pending the appeal. [PL 2007, c. 319, §10 (AMD).]

D. The District Court Civil Rules and the Maine Rules of Civil Procedure apply to the conduct of the appeals, except as otherwise specified in this subsection. [PL 1983, c. 459, §7 (NEW).]
[PL 2007, c. 319, §10 (AMD).]

12. Transmission of abstract of court ruling to the State Bureau of Identification. Notwithstanding any other provision of this section or section 1207, a court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract of any order for involuntary commitment issued by the court pursuant to this section. The abstract must include:

A. The name, date of birth and gender of the person who is the subject of the order for involuntary commitment; [PL 2007, c. 670, §19 (NEW).]

B. The court's ruling that the person has been involuntarily committed; and [PL 2007, c. 670, §19 (NEW).]

C. A notation that the person has been notified by the court in accordance with subsection 5, paragraph A-1 and subsection 13. [PL 2007, c. 670, §19 (NEW).]

The abstract required in this subsection is confidential and is not a "public record" as defined in Title 1, chapter 13; however, a copy of the abstract may be provided by the State Bureau of Identification to a criminal justice agency for legitimate law enforcement purposes, to the Federal Bureau of Investigation, National Instant Criminal Background Check System or to an issuing authority for the purpose of processing concealed firearm permit applications.

For the purposes of this subsection, "criminal justice agency" means a federal, state, tribal, district, county or local government agency or any subunit thereof that performs the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government.
[PL 2007, c. 670, §19 (NEW).]

13. Firearms possession prohibition notification. A court that orders a person to be committed involuntarily pursuant to this section shall inform the person that possession, ownership or control of a firearm by that person is prohibited pursuant to Title 15, section 393, subsection 1. As used in this subsection, "firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.
[PL 2007, c. 670, §20 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1995, c. 496, §§3-6 (AMD). PL 1997, c. 422, §§13-19 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 519, §§BBBB9,10 (AMD). PL 2005, c. 519, §BBBB20 (AFF). PL 2007, c. 319, §10 (AMD). PL 2007, c. 446, §§2-4 (AMD). PL 2007, c. 446, §7 (AFF). PL 2007, c. 472, §1 (AMD). PL 2007, c. 670, §§18-20 (AMD). PL 2009, c. 281, §3 (AMD). PL 2009, c. 651, §§20-26 (AMD). PL 2015, c. 309, §§6-8 (AMD). PL 2021, c. 389, §3 (AMD).

§3865. Hospitalization by federal agency

If a person ordered to be hospitalized under section 3864 is eligible for hospital care or treatment by any agency of the United States, the court, upon receipt of a certificate from the agency showing that facilities are available and that the person is eligible for care or treatment in the facilities, may order the person to be placed in the custody of the agency for hospitalization. [PL 2007, c. 319, §11 (AMD).]

1. Rules and rights. A person admitted under this section to any psychiatric hospital or institution operated by any agency of the United States, inside or outside the State, is subject to the rules of the agency, but retains all rights to release and periodic court review granted by this subchapter.
[PL 2007, c. 319, §11 (AMD).]

2. Powers of chief administrative officer. The chief administrative officer of any psychiatric hospital or institution operated by a federal agency in which the person is hospitalized has, with respect to the person, the same powers as the chief administrative officer of psychiatric hospitals or the commissioner within this State with respect to detention, custody, transfer, conditional release or discharge of patients.
[PL 2007, c. 319, §11 (AMD).]

3. Court jurisdiction. Every order of hospitalization issued under this section is conditioned on the retention of jurisdiction in the courts of this State to, at any time:

A. Inquire into the mental condition of a person hospitalized; and [PL 1983, c. 459, §7 (NEW).]

B. Determine the necessity for continuance of the person's hospitalization. [PL 2007, c. 319, §11 (AMD).]

[PL 2007, c. 319, §11 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2007, c. 319, §11 (AMD).

§3866. Members of the Armed Forces

1. Admission to psychiatric hospital. Any member of the Armed Forces of the United States who was a resident of the State at the time of the member's induction into the service and who is determined by a federal board of medical officers to have a mental disease not incurred in line of duty must be received, at the discretion of the commissioner and without formal commitment, at either of the state mental health institutes, upon delivery at the institute designated by the commissioner of:

A. The member of the Armed Forces; and [PL 1983, c. 459, §7 (NEW).]

B. The findings of the board of medical officers that the member is mentally ill. [PL 2007, c. 319, §12 (AMD).]

[PL 2007, c. 319, §12 (AMD).]

2. Status. After delivery of the member of the Armed Forces at the state mental health institute designated by the commissioner, the member's status is the same as if the member had been committed to the institute under section 3864.

[PL 2007, c. 319, §12 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2007, c. 319, §12 (AMD).

§3867. Transfer from out-of-state institutions

1. Commissioner's authority. The commissioner may, upon request of a competent authority of the District of Columbia or of a state that is not a member of the Interstate Compact on Mental Health, authorize the transfer of a mentally ill person directly to a state mental health institute in Maine, if:

A. The person has resided in this State for a consecutive period of one year during the 3-year period immediately preceding commitment in the other state or the District of Columbia; [PL 2007, c. 319, §13 (AMD).]

B. The person is currently confined in a recognized institution for the care of the mentally ill as the result of proceedings considered legal by that state or by the District of Columbia; [PL 2007, c. 319, §13 (AMD).]

C. A duly certified copy of the original commitment proceedings and a copy of the person's case history is supplied; [PL 2007, c. 319, §13 (AMD).]

D. The commissioner, after investigation, considers the transfer justifiable; and [PL 1997, c. 422, §20 (AMD).]

E. All expenses of the transfer are borne by the agency requesting it. [PL 1983, c. 459, §7 (NEW).]

[PL 2007, c. 319, §13 (AMD).]

2. Receipt of patient. When the commissioner has authorized a transfer under this section, the superintendent of the state mental health institute designated by the commissioner shall receive the patient as having been regularly committed to the state mental health institute under section 3864.

[PL 2007, c. 319, §13 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1997, c. 422, §20 (AMD). PL 2007, c. 319, §13 (AMD).

§3868. Transfer to other institutions

1. To other hospitals. The commissioner may transfer, or authorize the transfer of, a patient from one hospital to another, either inside or outside the State, if the commissioner determines that it would be consistent with the medical or psychiatric needs of the patient to do so.

A. Before a patient is transferred, the commissioner shall give written notice of the transfer to the patient's guardian, the patient's parents or spouse or, if none of these persons exists or can be

located, to the patient's next of kin or friend, except that if the chief administrative officer of the hospital to which the patient is currently admitted has reason to believe that notice to any of these individuals would pose risk of harm to the person, then notice may not be given to that individual. [PL 1997, c. 422, §21 (AMD).]

B. In making all such transfers, the commissioner shall give due consideration to the relationship of the patient to the patient's family, guardian or friends, in order to maintain relationships and encourage visits beneficial to the patient. [PL 2007, c. 319, §14 (AMD).]

C. For a patient transferred under this subsection, the order of involuntary commitment and the order of involuntary treatment, if any, remain in effect and are transferred to the receiving hospital. [PL 2015, c. 309, §9 (NEW).]

[PL 2015, c. 309, §9 (AMD).]

2. To federal agency. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any involuntarily hospitalized person and that the person is eligible for care and treatment in a hospital or institution of the agency, the chief administrative officer of the psychiatric hospital may cause the person's transfer to the agency of the United States for hospitalization.

A. Upon making such a transfer, the chief administrative officer shall notify the court that ordered hospitalization and the persons specified in subsection 1, paragraph A. [PL 2007, c. 319, §14 (AMD).]

B. A person may not be transferred to an agency of the United States if the person is confined pursuant to conviction of any felony or misdemeanor or if the person has been acquitted of the charge solely on the ground of mental illness, unless before the transfer the court originally ordering confinement of the person enters an order for transfer after appropriate motion and hearing. [PL 2007, c. 319, §14 (AMD).]

C. Any person transferred under this section to an agency of the United States is deemed to be hospitalized by the agency pursuant to the original order of hospitalization. [PL 1983, c. 459, §7 (NEW).]

[PL 2007, c. 319, §14 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1997, c. 422, §21 (AMD). PL 2007, c. 319, §14 (AMD). PL 2015, c. 309, §9 (AMD).

§3869. Return from unauthorized absence

If any patient committed under section 3864 leaves the grounds of the psychiatric hospital without authorization of the chief administrative officer of the psychiatric hospital or the chief administrative officer's designee, or refuses to return to the psychiatric hospital from a community pass when requested to do so by the chief administrative officer or the chief administrative officer's designee, law enforcement personnel of the State or of any of its subdivisions may, upon request of the chief administrative officer or the chief administrative officer's designee, assist in the return of the patient to the psychiatric hospital. [PL 2007, c. 319, §15 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2007, c. 319, §15 (AMD).

§3870. Convalescent status

1. Authority. The chief administrative officer of a state mental health institute may release an improved patient on convalescent status when the chief administrative officer believes that the release is in the best interest of the patient and that the patient does not pose a likelihood of serious harm. The

chief administrative officer of a nonstate mental health institute may release an improved patient on convalescent status when the chief administrative officer believes that the release is in the best interest of the patient, the patient does not pose a likelihood of serious harm and, when releasing an involuntarily committed patient, the chief administrative officer has obtained the approval of the commissioner after submitting a plan for continued responsibility.

A. Release on convalescent status may include provisions for continuing responsibility to and by the psychiatric hospital, including a plan of treatment on an outpatient or nonhospital basis. [PL 2007, c. 319, §16 (AMD).]

B. Before release on convalescent status under this section, the chief administrative officer of a psychiatric hospital shall make a good faith attempt to notify, by telephone, personal communication or letter, of the intent to release the patient on convalescent status and of the plan of treatment, if any:

(1) The parent or guardian of a minor patient;

(2) The legal guardian of an adult incompetent patient, if any is known; or

(3) The spouse or adult next of kin of an adult competent patient, if any is known, unless the patient requests in writing that the notice not be given.

If the chief administrative officer of the psychiatric hospital to which the patient is currently admitted has reason to believe that notice to any of the individuals listed in this paragraph would pose risk of harm to the patient, then notice may not be given to that individual. [PL 2007, c. 319, §16 (AMD).]

C. The psychiatric hospital is not liable when good faith attempts to notify the parents, spouse or guardian have failed. [PL 2007, c. 319, §16 (AMD).]

D. Before releasing a patient on convalescent status, the chief administrative officer of the psychiatric hospital shall advise the patient, orally and in writing, of the terms of the patient's convalescent status, the treatment available while the patient is on convalescent status and, if the patient is a voluntary patient, of the patient's right to request termination of the status and, if involuntarily committed, the means by which and conditions under which rehospitalization may occur. [PL 2007, c. 319, §16 (AMD).]

[PL 2007, c. 319, §16 (AMD).]

2. Reexamination. Before a patient has spent a year on convalescent status, and at least once a year thereafter, the chief administrative officer of the psychiatric hospital shall reexamine the facts relating to the hospitalization of the patient on convalescent status.

[PL 2007, c. 319, §16 (AMD).]

3. Discharge. Discharge from convalescent status is governed as follows.

A. If the chief administrative officer of the psychiatric hospital determines that, in view of the condition of the patient, convalescent status is no longer necessary, the chief administrative officer shall discharge the patient and make a report of the discharge to the commissioner. [PL 2007, c. 319, §16 (AMD).]

B. The chief administrative officer shall terminate the convalescent status of a voluntary patient within 10 days after the day the chief administrative officer receives from the patient a request for discharge from convalescent status. [PL 1997, c. 422, §22 (AMD).]

C. Discharge from convalescent status occurs upon expiration of the period of involuntary commitment. [PL 2005, c. 519, Pt. BBBB, §11 (NEW); PL 2005, c. 519, Pt. BBBB, §20 (AFF).]

[PL 2007, c. 319, §16 (AMD).]

4. Rehospitalization. Rehospitalization of patients under this section is governed as follows.

A. If, prior to discharge, there is reason to believe that it is in the best interest of an involuntarily committed patient on convalescent status to be rehospitalized, or if an involuntarily committed patient on convalescent status poses a likelihood of serious harm, the commissioner, or the chief administrative officer of the psychiatric hospital with the approval of the commissioner, may issue an order for the immediate rehospitalization of the patient. [PL 2007, c. 319, §16 (AMD).]

B. [PL 1997, c. 422, §22 (RP).]

C. If the order is not voluntarily complied with, an involuntarily committed patient on convalescent leave may be returned to the psychiatric hospital if the following conditions are met:

(1) An order is issued pursuant to paragraph A;

(2) The order is brought before a District Court Judge or justice of the peace; and

(3) Based upon clear and convincing evidence that return to the psychiatric hospital is in the patient's best interest or that the patient poses a likelihood of serious harm, the District Court Judge or justice of the peace approves return to the psychiatric hospital.

After approval by the District Court Judge or justice of the peace, a law enforcement officer may take the patient into custody and arrange for transportation of the patient in accordance with the provisions of section 3863, subsection 4.

This paragraph does not preclude the use of protective custody by law enforcement officers pursuant to section 3862. [PL 2007, c. 319, §16 (AMD).]

[PL 2007, c. 319, §16 (AMD).]

5. Notice of change of status. Notice of the change of convalescent status of patients is governed as follows.

A. If the convalescent status of a patient in a psychiatric hospital is to be changed, either because of a decision of the chief administrative officer of the psychiatric hospital or because of a request made by a voluntary patient, the chief administrative officer of the psychiatric hospital shall immediately make a good faith attempt to notify, by telephone, personal communication or letter, of the contemplated change:

(1) The parent or guardian of a minor patient;

(2) The guardian of an adult incompetent patient, if any is known; or

(3) The spouse or adult next of kin of an adult competent patient, unless the patient requests in writing that the notice not be given.

If the chief administrative officer of the psychiatric hospital to which the patient is currently admitted has reason to believe that notice to any of the individuals listed in this paragraph would pose risk of harm to the person, then notice may not be given to that individual. [PL 2007, c. 319, §16 (AMD).]

B. If the change in convalescent status is due to the request of a voluntary patient, the chief administrative officer of the psychiatric hospital shall give the required notice within 10 days after the day the chief administrative officer receives the request. [PL 2007, c. 319, §16 (AMD).]

C. The psychiatric hospital is not liable when good faith attempts to notify the parents, spouse or guardian have failed. [PL 2007, c. 319, §16 (AMD).]

[PL 2007, c. 319, §16 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1987, c. 736, §54 (AMD). PL 1997, c. 422, §22 (AMD). PL 2005, c. 519, §§BBBB11,12 (AMD). PL 2005, c. 519, §BBBB20 (AFF). PL 2007, c. 319, §16 (AMD).

§3871. Discharge

1. Examination. The chief administrative officer of a psychiatric hospital shall, as often as practicable, but no less often than every 30 days, examine or cause to be examined every patient to determine that patient's mental status and need for continuing hospitalization.
[PL 2007, c. 319, §17 (AMD).]

2. Conditions for discharge. The chief administrative officer of a psychiatric hospital shall discharge, or cause to be discharged, any patient when:

A. Conditions justifying hospitalization no longer obtain; [PL 1983, c. 459, §7 (NEW).]

B. The patient is transferred to another hospital for treatment for that patient's mental or physical condition; [PL 1997, c. 422, §23 (AMD).]

C. The patient is absent from the psychiatric hospital unlawfully for a period of 90 days; [PL 2007, c. 319, §17 (AMD).]

D. Notice is received that the patient has been admitted to another hospital, inside or outside the State, for treatment for that patient's mental or physical condition; or [PL 1997, c. 422, §23 (AMD).]

E. Although lawfully absent from the psychiatric hospital, the patient is admitted to another hospital, inside or outside the State, for treatment of that patient's mental or physical condition, except that, if the patient is directly admitted to another hospital and it is the opinion of the chief administrative officer of the psychiatric hospital that the patient will directly reenter the psychiatric hospital within the foreseeable future, the patient need not be discharged. [PL 2007, c. 319, §17 (AMD).]
[PL 2007, c. 319, §17 (AMD).]

3. Discharge against medical advice. The chief administrative officer of a psychiatric hospital may discharge, or cause to be discharged, any patient even though the patient is mentally ill and appropriately hospitalized in the psychiatric hospital, if:

A. The patient and either the guardian, spouse or adult next of kin of the patient request that patient's discharge; and [PL 1997, c. 422, §23 (AMD).]

B. In the opinion of the chief administrative officer of the psychiatric hospital, the patient does not pose a likelihood of serious harm due to that patient's mental illness. [PL 2007, c. 319, §17 (AMD).]
[PL 2007, c. 319, §17 (AMD).]

3-A. Discharge limited. A psychiatric hospital may not discharge a person committed under section 3864 solely because the person is placed in execution of a sentence in a county jail.
[PL 2009, c. 281, §4 (NEW).]

4. Reports.
[PL 1995, c. 496, §7 (RP).]

5. Notice. Notice of discharge is governed as follows.

A. When a patient is discharged under this section, the chief administrative officer of the psychiatric hospital shall immediately make a good faith attempt to notify the following people, by telephone, personal communication or letter, that the discharge has taken or will take place:

(1) The parent or guardian of a minor patient;

(2) The guardian of an adult incompetent patient, if any is known; or

(3) The spouse or adult next of kin of an adult competent patient, if any is known, unless the patient requests in writing that the notice not be given or unless the patient was transferred from or will be returned to a state correctional facility.

If the chief administrative officer of the psychiatric hospital to which the patient is currently admitted has reason to believe that notice to any of the individuals listed in this paragraph would pose a risk of harm to the person, then notice may not be given to that individual. [PL 2007, c. 319, §17 (AMD).]

B. The psychiatric hospital is not liable when good faith attempts to notify the parents, spouse or guardian have failed. [PL 2007, c. 319, §17 (AMD).]

[PL 2007, c. 319, §17 (AMD).]

6. Discharge to progressive treatment program. If a person participates in the progressive treatment program under section 3873-A, the time period of a commitment under this section terminates on entry into the progressive treatment program.

[PL 2009, c. 651, §27 (AMD).]

7. Firearms and discharge planning. Discharge planning must include inquiries and documentation of those inquiries into access by the patient to firearms and notification to the patient, the patient's family and any other caregivers that possession, ownership or control of a firearm by the person to be discharged is prohibited pursuant to Title 15, section 393, subsection 1. As used in this subsection, "firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

[PL 2009, c. 451, §11 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1995, c. 496, §§7,8 (AMD). PL 1997, c. 422, §23 (AMD). PL 2005, c. 519, §BBBB13 (AMD). PL 2005, c. 519, §BBBB20 (AFF). PL 2007, c. 319, §17 (AMD). PL 2009, c. 281, §4 (AMD). PL 2009, c. 451, §11 (AMD). PL 2009, c. 651, §27 (AMD).

§3872. Treatment of dually diagnosed persons

(REPEALED)

SECTION HISTORY

PL 1985, c. 615 (NEW). PL 1997, c. 422, §24 (RP).

§3873. Progressive treatment program

(REPEALED)

SECTION HISTORY

PL 2005, c. 519, §BBBB14 (NEW). PL 2005, c. 519, §BBBB20 (AFF). PL 2009, c. 276, §2 (AMD). PL 2009, c. 321, §§1-4 (AMD). PL 2009, c. 651, §28 (RP).

§3873-A. Progressive treatment program

1. Application. The superintendent or chief administrative officer of a psychiatric hospital, the commissioner, the director of an ACT team, a medical practitioner, a law enforcement officer or the legal guardian of the patient who is the subject of the application may obtain an order from the District Court to admit a patient to a progressive treatment program upon the following conditions:

A. The patient suffers from a severe and persistent mental illness; [PL 2009, c. 651, §29 (NEW).]

B. The patient poses a likelihood of serious harm; [PL 2009, c. 651, §29 (NEW).]

C. The patient has the benefit of a suitable individualized treatment plan; [PL 2009, c. 651, §29 (NEW).]

D. Licensed and qualified community providers are available to support the treatment plan; [PL 2011, c. 492, §1 (AMD).]

E. The patient is unlikely to follow the treatment plan voluntarily; [PL 2009, c. 651, §29 (NEW).]

F. Court-ordered compliance will help to protect the patient from interruptions in treatment, relapses or deterioration of mental health; and [PL 2009, c. 651, §29 (NEW).]

G. Compliance will enable the patient to survive more safely in a community setting without posing a likelihood of serious harm. [PL 2009, c. 651, §29 (NEW).]

[PL 2011, c. 492, §1 (AMD).]

2. Contents of the application. The application must be accompanied by a certificate of a medical practitioner providing the facts and opinions necessary to support the application. The certificate must indicate that the examiner's opinions are based on one or more recent examinations of the patient or upon the examiner's recent personal treatment of the patient. Opinions of the examiner may be based on personal observation and must include a consideration of history and information from other sources considered reliable by the examiner when such sources are available. The application must include a proposed individualized treatment plan and identify one or more licensed and qualified community providers willing to support the plan.

The applicant must also provide a written statement certifying that a copy of the application and the accompanying documents have been given personally to the patient and that the patient and the patient's guardian or next of kin, if any, have been notified of:

A. The patient's right to retain an attorney or to have an attorney appointed; [PL 2009, c. 651, §29 (NEW).]

B. The patient's right to select or to have the patient's attorney select an independent examiner; and [PL 2009, c. 651, §29 (NEW).]

C. How to contact the District Court. [PL 2009, c. 651, §29 (NEW).]

[PL 2011, c. 492, §1 (AMD).]

3. Notice of hearing. Upon receipt by the District Court of the application or any motion relating to the application, the court shall cause written notice of hearing to be mailed within 2 days to the applicant, to the patient and to the following persons if known: to anyone serving as the patient's guardian and to the patient's spouse, a parent or an adult child, if any. If no immediate relatives are known or can be located, notice must be mailed to a person identified as the patient's next of kin or a friend, if any are known. If the applicant has reason to believe that notice to any individual would pose risk of harm to the patient, notice to that individual may not be given. A docket entry is sufficient evidence that notice under this subsection has been given. If the patient is not hospitalized, the applicant shall serve the notice of hearing upon the patient personally and provide proof of service to the court. [PL 2011, c. 492, §1 (AMD).]

4. Examinations. Examinations under this section are governed as follows.

A. Upon receipt by the District Court of the application and the accompanying documents specified in subsection 1 and at least 3 days after the person who is the subject of the examination is notified by the applicant of the proceedings and of that person's right to retain counsel or to select an examiner, the court shall cause the person to be examined by a medical practitioner. If the person under examination or the counsel for that person selects a qualified examiner who is reasonably available, the court shall give preference to choosing that examiner. [PL 2009, c. 651, §29 (NEW).]

B. The examination must be held at a psychiatric hospital, a crisis center, an ACT team facility or at another suitable place not likely to have a harmful effect on the mental health of the patient. [PL 2009, c. 651, §29 (NEW).]

C. The examiner shall report to the court on:

(1) Whether the patient is a mentally ill person within the meaning of section 3801, subsection 5;

(2) Whether the patient is suffering from a severe and persistent mental illness within the meaning of section 3801, subsection 8-A; and

(3) Whether the patient poses a likelihood of serious harm within the meaning of section 3801, subsection 4-A. [PL 2009, c. 651, §29 (NEW).]

[PL 2009, c. 651, §29 (NEW).]

5. Hearings. Hearings under this section are governed as follows.

A. The District Court shall hold a hearing on the application or any subsequent motion not later than 14 days from the date when the application or motion is filed. For good cause shown, on a motion by any party or by the court on its own motion, the hearing may be continued for a period not to exceed 21 additional days. If the hearing is not held within the time specified, or within the specified continuance period, the court shall dismiss the application or motion. In computing the time periods set forth in this paragraph, the Maine Rules of Civil Procedure apply. [PL 2009, c. 651, §29 (NEW).]

A-1. Prior to the commencement of the hearing, the court shall inform the patient that, if an order is entered that includes a prohibition on the possession of dangerous weapons, that patient is a prohibited person and may not possess or have under that patient's control a firearm pursuant to Title 15, section 393, subsection 1. [PL 2019, c. 411, Pt. B, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

B. The hearing must be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to harm the mental health of the patient. The applicant shall transport the patient to and from the place of hearing. If the patient is released following the hearing, the patient must be transported to the patient's place of residence if the patient so requests. [PL 2009, c. 651, §29 (NEW).]

C. The court shall conduct the hearing in accordance with accepted rules of evidence. The patient, the applicant and all other persons to whom notice is required to be sent must be afforded an opportunity to appear at the hearing to testify and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other person and may subpoena any witness. [PL 2009, c. 651, §29 (NEW).]

D. The patient must be afforded an opportunity to be represented by counsel, and, if neither the patient nor others provide counsel, the court shall appoint counsel for the patient. [PL 2009, c. 651, §29 (NEW).]

E. At the time of hearing, the applicant shall submit to the court expert testimony to support the application and to describe the proposed individual treatment plan. The applicant shall bear the expense of providing witnesses for this purpose. [PL 2009, c. 651, §29 (NEW).]

F. The court may consider, but is not bound by, an advance directive or durable power of attorney executed by the patient and may receive testimony from the patient's guardian or attorney in fact. [PL 2009, c. 651, §29 (NEW).]

G. A stenographic or electronic record must be made of the proceedings. The record and all notes, exhibits and other evidence are confidential and must be retained as part of the District Court records for a period of 2 years from the date of the hearing. [PL 2009, c. 651, §29 (NEW).]

H. The hearing is confidential and a report of the proceedings may not be released to the public or press, except by permission of the patient or the patient's counsel and with approval of the presiding District Court Judge, except that the court may order a public hearing on the request of the patient or patient's counsel. [PL 2009, c. 651, §29 (NEW).]

I. Except as provided in this subsection, the provisions of section 3864, subsections 10 and 11 apply to expenses and the right of appeal. [PL 2009, c. 651, §29 (NEW).]

[PL 2019, c. 411, Pt. B, §1 (AMD); PL 2019, c. 411, Pt. D, §3 (AFF).]

6. Order. After notice, examination and hearing, the court may issue an order effective for a period of up to 12 months directing the patient to follow an individualized treatment plan and identifying incentives for compliance and potential consequences for noncompliance.

[PL 2009, c. 651, §29 (NEW).]

7. Compliance. To ensure compliance with the treatment plan, the court may:

A. Order that the patient be committed to the care and supervision of an ACT team or other outpatient facility with such restrictions or conditions as may be reasonable and necessary to ensure plan compliance; [PL 2009, c. 651, §29 (NEW).]

B. Endorse an application for admission to a psychiatric hospital under section 3863 conditioned on receiving a certificate from a medical practitioner that the patient has failed to comply with an essential requirement of the treatment plan; and [PL 2011, c. 541, §3 (AMD).]

C. Order that any present or conditional restrictions on the patient's liberty or control over the patient's assets or affairs be suspended or ended upon achievement of the designated goals under the treatment plan. [PL 2009, c. 651, §29 (NEW).]

[PL 2011, c. 541, §3 (AMD).]

7-A. Dangerous weapons. If the court directs a patient to follow an individualized treatment plan pursuant to subsection 6, the court may prohibit the patient from possessing a dangerous weapon as described in Title 17-A, section 2, subsection 9, paragraph C, including a firearm as defined in Title 17-A, section 2, subsection 12-A, for the duration of the treatment plan. If the court prohibits the patient from possessing a dangerous weapon, the court shall specify the type of weapon the patient is prohibited from possessing; notify the patient that possession of such a weapon by the person is prohibited pursuant to Title 15, section 393; and direct the patient to relinquish, within 24 hours after service of the order on the patient or such earlier time as the court specifies in the order, such weapons in the possession of the patient to a law enforcement officer for the duration of the order. The duties and liability of a law enforcement agency with respect to dangerous weapons surrendered pursuant to this subsection are governed by Title 25, section 2804-C, subsection 2-C.

[PL 2019, c. 411, Pt. B, §2 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

7-B. Transmission of abstract of court ruling to Department of Public Safety. Notwithstanding any other provision of this section or section 1207, a court shall electronically update or transmit to the Department of Public Safety an abstract of the order issued by the court pursuant to this section that includes a prohibition on the possession of a dangerous weapon pursuant to subsection 7-A. Implementation of this requirement is governed by section 3862-A, subsection 6, paragraph D, subparagraph (5).

[PL 2019, c. 411, Pt. B, §2 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

8. Consequences. In addition to any conditional remedies contained in the court's order, if the patient fails to comply with the treatment plan, the applicant may file with the court a motion for enforcement supported by a certificate from a medical practitioner identifying the circumstances of noncompliance. If after notice and hearing the court finds that the patient has been noncompliant and that the patient presents a likelihood of serious harm, the court may authorize emergency hospitalization under section 3863 if the practitioner's certificate supporting the motion complies with section 3863,

subsection 2. Nothing in this section precludes the use of protective custody by law enforcement officers under section 3862.
[PL 2009, c. 651, §29 (NEW).]

9. Motion to dissolve, modify or extend. For good cause shown, any party to the application may move to dissolve or modify an order or to extend the term of the treatment plan for an additional term of up to one year.
[PL 2009, c. 651, §29 (NEW).]

10. Limitation.

[PL 2011, c. 492, §2 (RP).]

SECTION HISTORY

PL 2009, c. 651, §29 (NEW). PL 2011, c. 492, §§1, 2 (AMD). PL 2011, c. 541, §3 (AMD). PL 2019, c. 411, Pt. B, §§1, 2 (AMD). PL 2019, c. 411, Pt. D, §3 (AFF).

§3873-B. Progressive Treatment Program Fund

1. Progressive Treatment Program Fund established. The Progressive Treatment Program Fund, referred to in this section as "the fund," is established as a nonlapsing fund under the administration of the department.
[PL 2021, c. 745, §1 (NEW).]

2. Application of fund. The department shall use the money in the fund to reimburse the legal costs incurred by private entities to initiate progressive treatment programs in accordance with section 3873-A. A private entity seeking reimbursement must submit to the department an itemized bill of legal costs incurred to initiate the progressive treatment program. The maximum amount the department may reimburse a private entity for the legal costs to initiate a progressive treatment program is $800.
[PL 2021, c. 745, §1 (NEW).]

3. Sources of fund. The following must be paid into the fund:

A. All money appropriated for inclusion in the fund; [PL 2021, c. 745, §1 (NEW).]

B. Subject to any pledge, contract or other obligation, any money that the department receives in repayment of loans or advances from the fund; [PL 2021, c. 745, §1 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends or other income from investment of the fund; and [PL 2021, c. 745, §1 (NEW).]

D. Any other money, including federal money, deposited in the fund. [PL 2021, c. 745, §1 (NEW).]
[PL 2021, c. 745, §1 (NEW).]

4. Rulemaking. The department may adopt rules as necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 745, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 745, §1 (NEW).

§3874. Medical examinations conducted via telehealth technologies

Notwithstanding any other provision in this subchapter, any medical examination or consultation required or permitted to be conducted under this subchapter may be conducted using telehealth or other similar technologies that enable the medical examination or consultation to be conducted in accordance with applicable standards of care. As used in this section, "telehealth" has the same meaning as in Title 24-A, section 4316, subsection 1. [PL 2021, c. 293, Pt. B, §9 (AMD).]

SECTION HISTORY

PL 2015, c. 309, §10 (NEW). PL 2021, c. 293, Pt. B, §9 (AMD).

SUBCHAPTER 5

MAINE COMMISSION ON MENTAL HEALTH

§3901. Maine Commission on Mental Health; establishment; membership; compensation (REPEALED)

SECTION HISTORY

PL 1987, c. 887, §8 (NEW). PL 1989, c. 335, §4 (AMD). PL 1989, c. 503, §B163 (AMD). PL 1989, c. 878, §A103 (AMD). PL 1991, c. 622, §S33 (RP).

§3902. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1987, c. 887, §8 (NEW). PL 1989, c. 335, §5 (AMD). PL 1991, c. 622, §S34 (RP). PL 1991, c. 781, §A3 (AMD). PL 1993, c. 349, §69 (RP).

§3903. Reports

(REPEALED)

SECTION HISTORY

PL 1987, c. 887, §8 (NEW). PL 1991, c. 622, §S35 (RP).

SUBCHAPTER 7

MENTAL HEALTH CASE MANAGEMENT SERVICES FOR VETERANS

§3911. Mental health case management services for veterans

The department shall provide contracted case management services to provide necessary mental health treatment to veterans who are residents of the State. Case management services must include assisting veterans in accessing a range of mental and behavioral health services, which must include inpatient mental health care services as clinically required. The department, with the assistance of the Department of Defense, Veterans and Emergency Management, Maine Bureau of Veterans' Services, referred to in this subchapter as "the bureau," shall identify regions of the State where case management services are most needed and identify veterans seeking case management services who are enrolled with the United States Department of Veterans Affairs and those who would likely be eligible to be enrolled. [PL 2021, c. 430, §2 (NEW).]

1. Coordination. The department, with the assistance of the bureau, shall seek to coordinate services with the United States Department of Veterans Affairs and state agencies that offer mental health care services or provide assistance to veterans.
[PL 2021, c. 430, §2 (NEW).]

2. Regional contracts. The department may enter into regional contracts, including a contract with a provider that has experience providing services in the northern part of the State, for the purpose of ensuring a statewide network of case management that provides coordinated mental health care services for veterans living in the State, including, but not limited to, inpatient treatment as clinically

required. Contracted providers shall, at a minimum, connect each individual referred to the provider for case management services with a veteran service officer at the bureau, who shall assist the individual in accessing the state and federal veterans benefits to which the individual may be entitled.
[PL 2021, c. 430, §2 (NEW).]

3. Eligibility. An individual who served in the Armed Forces of the United States and meets the definition of "veteran" under 38 Code of Federal Regulations, Section 3.1 or who has served or is currently serving in the Maine Army National Guard or Air National Guard or the Reserves of the Armed Forces of the United States is eligible to receive services under this subchapter. The character of a veteran's discharge from service is not a disqualifying eligibility criterion to receive services under this subchapter. A veteran who has received a mental health diagnosis or mental health disability rating from the United States Department of Veterans Affairs is eligible to receive services under this subchapter. A veteran who is not enrolled with the United States Department of Veterans Affairs who is determined to require mental health care services by a licensed mental health professional may be considered eligible for case management and other behavioral health services under this subchapter based on the individual needs of the veteran. The department, with the assistance of the bureau, shall establish criteria to determine eligibility for case management services to be provided under this subchapter.
[PL 2021, c. 430, §2 (NEW).]

4. Enrollment. The bureau shall work to assist veterans receiving case management services under this subchapter who are not enrolled with the United States Department of Veterans Affairs to determine eligibility and to assist with those veterans' enrollment and with filing claims to the United States Department of Veterans Affairs.
[PL 2021, c. 430, §2 (NEW).]

5. Cultural competency. Case management and mental health professionals selected to provide services pursuant to this subchapter must demonstrate familiarity with military and veteran culture.
[PL 2021, c. 430, §2 (NEW).]

6. Data collection. All veterans receiving case management and mental health services under this subchapter must be accounted for in department and bureau data collections.
[PL 2021, c. 430, §2 (NEW).]

7. Department report. The department, in consultation with the bureau, shall prepare a written report of the services provided under this subchapter and make any recommendations regarding its provision of services under this subchapter to the joint standing committee of the Legislature having jurisdiction over veterans affairs by February 1st annually.
[PL 2021, c. 430, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 430, §2 (NEW).

§3912. Veterans Mental Health Case Management and Services Fund

The Veterans Mental Health Case Management and Services Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing Other Special Revenue Funds account in the department. The fund is administered by the department to support the provision of case management services for veterans under this subchapter. [PL 2021, c. 430, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 430, §2 (NEW).

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