§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).

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