

# MaineHealth

## MaineHealth Local Health Systems

Franklin Community  
Health Network  
LincolnHealth  
MaineHealth Care At Home  
Maine Behavioral Healthcare  
Memorial Hospital  
Maine Medical Center  
Mid Coast-Parkview Health  
NorDx  
Pen Bay Medical Center  
Southern Maine Health Care  
Synernet  
Waldo County General Hospital  
Western Maine Health

## Part of the MaineHealth Family

MaineHealth Accountable  
Care Organization

## MaineHealth Affiliates

MaineGeneral Health  
New England Rehabilitation  
Hospital of Portland  
St. Mary's Health System

## Testimony of Katie Fullam Harris, MaineHealth in Strong Support of LD 1080, “Resolve, Directing the Department of Health and Human Services to Update the Rights of Recipients of Mental Health Services” Wednesday, April 7, 2021

Senator Claxton, Representative Meyer and distinguished members of the Joint Standing Committee on Health and Human Services, I am Katie Fullam Harris of MaineHealth, and I am here to testify in strong support of LD 1080, “An Act Regarding Substance Use Disorder Treatment Services and Increasing Reimbursement for Those Services” sponsored by Representative Stover.

The Rights of Recipients rule governs certain aspects of treatment including the rights of individuals with mental health diagnoses provided by all agencies licensed by what is now the Department of Health and Human Services and all public and private inpatient psychiatric institutes and units. This rule was last updated in 1995.

A lot has changed in the treatment of mental illness over the last twenty-six years, and it is well past the time when these rules should be updated. Some aspects of the rules are obsolete, such as a grievance process that relies upon a Director of the Division of Mental Health and an Office of Advocacy, neither of which exist today. And the rule’s definition of patient attributes that are protected from discrimination fails to account for sexual orientation and gender identification, both of which are particularly important in the treatment of mental health.

In other places, the rule, adherence to which is a requirement in our contracts with the State, requires that we provide flexibility for patients which might then be contradicted by licensing regulations.

The Rights of Recipients specifically requires that patients provide written informed consent before receiving treatment, including medications. This adds to the stigma associated with mental illness, as the only other type of treatment that specifically requires written informed consent is some forms of chemotherapy. This provision is particularly difficult for patients who have paranoia and, though willing to take medication, are not willing to sign any documents due to the symptoms of their disease.

Another troubling requirement is the right of patients to pick and choose individual services, even when they are not supported by the standard of

care. This can lead our clinical teams in a Catch 22. They are required by the contract to provide the service, yet the individual service may be of unlikely benefit to the patient in isolation, whereas another service or a coordinated approach with two or more services may be more likely to be successful. . For example, a patient who has had multiple unsuccessful antidepressant trials for a severe depression is poorly likely to respond to yet another medicine alone, but may respond to psychotherapy or a combination of medicine and psychotherapy. If a patient with such a diagnosis chooses treatment that is not evidence based, and then has an adverse outcome, the treating provider can be held liable for the adverse outcome. Yet the Rights of Recipients does not give the provider the option of refusing to treat the patient.

As we seek to improve the delivery of mental health care in Maine, it is important that laws, rules and regulations support current standards of care and accurately reflect the society in which they are delivered. The Rights of Recipients does neither at this point, and instead it impedes the effective delivery of services to individuals with mental health diagnoses.

It is time to bring back together a stakeholder group to review this document and recommend necessary changes to reflect the era in which we live.