

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2042

S. P. 662

In Senate, January 6, 1978

Governor's Bill. The Committee on Health and Institutional Services suggested.

MAY M. ROSS, Secretary

Presented by Senator Snowe from Androscoggin

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

**An Act to Clarify Statutes Relating to the Confidentiality of the Records of the Department
of Mental Health and Corrections.**

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

Sec. 1. **34 MRSA § 1-B**, as enacted by PL 1975, c. 718, § 3, is repealed and the following enacted in its place:

§ 1-B. Disclosure of information

All orders of commitment, medical and administrative records, applications and reports and facts therein pertaining to any persons receiving services from the department, from any hospital, facility or institution pursuant to chapters 63, 66, 121, 191, 225, or Title 15, chapter 409 or from any facility licensed by the department pursuant to section 2052-A, or supported by the department pursuant to 2641 or chapter 62-A, shall be kept confidential and shall not be disclosed by any person except insofar:

1. **Consent of individual.** As the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, having been given the opportunity to review the information sought to be disclosed, shall give his informed written consent;

2. **Necessity.** As disclosure may be necessary to carry out any of the statutory functions of the department, or the hospitalization or admission provisions of any of the chapters and sections listed in this section;

3. **Court directive.** As may be ordered by a court of record subject to any limitations contained within the privileged communication provisions of Title 32;

4. **Certain research material.** As the material disclosed is used for legitimate research, evaluation or statistical activities pursuant to a written agreement with the department. The agreement shall include the access procedure outlined in section 1-C, subsection 1, and shall specifically authorize access to the data, limit the use of data to research, evaluation or statistical purposes, insure the security and confidentiality of the data and provide sanctions for the violation thereof; or

5. **Criminal history record information.** As the material disclosed is criminal history record information, as defined by Title 16, section 601. This information shall be disseminated pursuant to Title 16, subchapter VII.

As to persons receiving services pursuant to any of the chapters and sections named in this section, nothing in this section shall preclude disclosure, upon proper inquiry, of information relating to the physical condition or mental status of an individual receiving the services to his spouse or next of kin; or the disclosure of biographical or medical information concerning the individual to commercial or governmental insurers, or any other corporation, association or agency from which the department or licensee of the department may receive reimbursement for the care and treatment, education, training or support of the individual and the recipient of the information shall use it for no other purpose than to determine eligibility for reimbursement and if eligibility exists to make reimbursement; or the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any individual receiving such services in connection with any educational or training program, established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, provided that in the disclosure, or use of any of the information as part of a course of instruction or training program, the patient's identity shall remain undisclosed.

Sec. 2. 34 MRSA § 1-C, sub-§ 1, first sentence, as enacted by PL 1975, c. 718, § 3, is repealed and the following enacted in its place:

Persons engaged in statistical compilation or research may have access to treatment records of persons receiving services pursuant to any of the chapters and sections named in section 1-B when needed for research, provided that access is approved by the director of the mental health facility or his designee and provided that communications and records shall not be removed from the mental health facility which prepared them.

Sec. 3. 34 MRSA § 1-C, sub-§ 3 is enacted to read:

3. **Client's access to records; policies and procedures.** Clients receiving services pursuant to any of the chapters and sections outlined in section 1-B shall have access to their records in accordance with policies and procedures to be developed by the Department of Mental Health and Corrections by January 1, 1979.

STATEMENT OF FACT

This legislation provides policies, procedures and legislative mandates regulating the disclosure and dissemination of information on all clients served in any way by the department, including information on corrections' clients covered by Title 16, subchapter VII.

It also specifies the conditions under which client information may be accessed and used for legitimate research, evaluation or statistical activities and provides policies, procedures and legislative mandates regulating access of others to information on all clients served by the department and outlines client access to their own records.