

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 765

H. P. 661

House of Representatives, February 10, 1981

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Brodeur of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Provide for the Development of Mental Health Services.

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

Sec. 1. 34 MRSA c. 182 is enacted to read:

CHAPTER 182

MENTAL HEALTH SERVICES

§ 2021. Statement of policy

It is the policy of the State to develop and maintain a comprehensive and coordinated array of appropriate private and public community mental health and support services, for all people in need within specific geographic areas of the State, based on an assessment of local needs and patterns of services and to encourage participation in this system by implementing a cooperative local-state-federal partnership. The purpose of this system is to promote mental health, prevent mental illness and provide effective treatment and rehabilitation services in the most natural setting appropriate to the needs of persons of all ages and cultural backgrounds suffering from mental illness or disability.

§ 2022. Powers and duties

1. Department duties. The Department of Mental Health and Corrections shall ensure the provision of mental health services throughout the State, and for

that purpose shall cooperate with other state agencies, municipalities, persons, corporations, unincorporated associations and nonstock corporations. The department shall adopt and promulgate rules, regulations and standards relating to the administration of the services authorized by this chapter and to licensing under this chapter. Under this chapter, funds may be granted by the department only to those applicants whose programs provide adequate standards of professional service, and who are licensed by the department under this chapter money appropriated by the State and grants by the Federal Government, gifts from individuals and from any other sources.

2. State and local programs. Any state department, municipality, other governmental unit or any branch thereof, or any composite thereof, through its authorized representative or governing body approved by the department, may adopt and conduct a program of mental health services established or approved by the department.

3. Grants. The department may make grants of funds or contract with any entity described in this section applying therefor to be used in the conduct of its mental health services.

A. A grant made for this purpose may be made only to the community mental health center or area board in an area served by a community mental health center or area board, except if the department finds that, because of exceptional circumstances in the mental health service area, the mentally ill in the area would otherwise be underserved, a grant may be made to any other public or private nonprofit entity properly licensed.

B. In the event that a grant is made to an entity other than the community mental health center or area board, that decision may be appealed by the community mental health center or area board and the department is required to show cause for the decision that the mentally ill would be underserved if the grant were made to the community mental health center or area board. The hearing body for such appeals is the Governor's Mental Health Advisory Committee.

§ 2023. Definitions

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

1. Area Mental Health Board. "Area Mental Health Board" or "area board" means that group of citizens in each mental health service area banded together and incorporated as an Area Mental Health Board responsible for planning, coordination, development, review and comment relative to the comprehensive community health system within the mental health service area. The area board may deliver mental health services in the mental health service area. The area board shall develop an area plan in accordance with guidelines established by the department. There shall be only one area board in each service area and that board may be the Community Mental Health Center Board.

2. Community Mental Health Center. “Community Mental Health Center” means:

A. A community mental health center as defined in the United States Mental Health Systems Act, PL 96-398, Title 1, Section 101; or

B. The principal organization for the provision of or for assuring the provision of community mental health services:

(1) Primarily to residents of a defined “mental health service area;” or

(2) To an individual residing or employed in such an area regardless of ability to pay for these services, current or past health condition or any other factor.

3. Comprehensive community mental health system. “Comprehensive community mental health system” means an organized system of services, uniquely designed to address the identified needs of all significant population groups in a service area, which includes an array of services, but as a minimum the following services which shall be defined by the department and the definitions shall be reviewed on an annual basis. Services may be provided by a single agency or by a combination of agencies:

A. Outpatient;

B. 24-hour emergency;

C. Inpatient;

D. Day activity or partial hospitalization;

E. Community residential hospitalization;

F. Community support;

G. Consultation and education services; and

H. Services to courts and other agencies.

4. Department. “Department” means the Department of Mental Health and Corrections. The department is the state mental health authority and is responsible for mental health services.

5. Mental health service area. “Mental health service area” means the basic geographic unit designated in the State Health Plan for the development of comprehensive mental health services.

6. State mental health services program. “State mental health services program” means that program described in the State Mental Health Plan prepared by the department in compliance with United States Mental Health Systems Act, PL 96-398 Title III, Section 301, which identified specific problems and needs in the mental health service system and relates specific objectives and activities to those problems and needs.

§ 2024. Responsibilities

The department shall:

1. **Services available.** Assure that the following mental health services, as defined in accordance with section 2023, subsection 3, are available, to the extent that they are appropriate and possible, throughout the State;

- A. **Outpatient;**
- B. **Emergency;**
- C. **Inpatient;**
- D. **Day activity and partial hospitalization;**
- E. **Community residential hospitalization;**
- F. **Community support;**
- G. **Consultation and education; and**
- H. **Services to courts and other agencies.**

Priorities for the provision of these services shall be given to those special populations as determined in the State Mental Health Services Program;

2. **Natural setting.** Ensure that all clients of the mental health systems receive care in the most natural setting possible, consistent with the therapeutic intervention deemed most appropriate;

3. **Basic rights.** Ensure that the basic rights of current and potential clients in all mental health systems are protected through advocacy efforts;

4. **Designation for each mental health service area.** Designated an area board for each mental health service area. Each respective and existent community mental health center or area board will be so designated for an initial 3-year period unless they refuse the designation. Subsequent designations shall be for 3-year periods, and shall be reassessed annually;

5. **Planning.** Develop a comprehensive mental health services program for the State, hereafter referred to as the "State Services Program". This mental health services program is to be reviewed and updated annually as necessary to reflect progress, changing conditions and revised priorities and objectives in the State. The State Services Program shall conform to all federal requirements and incorporate the major findings of the plans developed by the area boards so that the State Services Program shall:

- A. **Describe the state and area system for planning, developing and managing mental health services, including methods of assuring continuing citizen involvement at state, local and service area levels, and of coordinating institutional and community mental health services;**

- B. Identify service areas and describe available public and private mental health resources within each area;**
- C. Identify mental health area agencies and describe their authority, functions and relationships with service areas and mental health service providers;**
- D. Include the demographic data, program, program planning, evaluation and recommendations which comprise the regional mental health plan;**
- E. Identify and set priorities for unmet mental health service needs and systems' problems by service areas and on a local and statewide basis as appropriate, including both institutional services, community based services and support systems for the chronically mentally ill, and community mental health services for acute care, and provide special attention to the needs of unserved, underserved and inappropriately served populations, such as children and adolescents, the elderly, racial and ethnic minorities, and the chronically mentally ill;**
- F. Set priorities for unmet needs and problems, establish specific objectives and planned activities to address priority needs and problems at state and local levels and include an evaluation strategy related to each objective;**
- G. Describe the relationship between these objectives and the goals and priorities in the state mental health services program;**
- H. Describe how existing federal, state and, to the extent feasible, local, public and private resources are being utilized to meet these objectives; and**
- I. Describe state and local activities or projects designed to prevent mental illness and promote mental health and how the capacity of the mental health system to prevent mental illness will be improved.**

§ 2025. Implementation

The department shall develop a funding plan for the implementation of this chapter and present a recommendation in the form of the department budget to each regular session of the Legislature, based upon contractual agreements with the respective Area Mental Health Board or their designee, or both.

§ 2026. Licensing

On and after July 1, 1974, no person, firm, association or corporation may operate, conduct or maintain in the State any facility for the provision of mental health services, not otherwise licensed as a hospital or medical care facility, without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. The term of such license shall be for one year and the license may be suspended or revoked for just cause. The annual fee for the license is \$25. When any such agency, upon inspection by the department, is found not to meet all requirements of this section and departmental regulations, hereunder, then the department may issue either a temporary license for a specified period not to exceed 90 days, during which time

corrections specified by the department shall be made by the facility for compliance with this section and departmental regulations hereunder, if in the judgment of the commissioner the best interest of the public will be served, or a conditional license setting forth conditions which must be met by the agency to the satisfaction of the department, or the department may refuse to issue any license. Failure of the agency to meet any of the conditions shall immediately void the conditional license by written notice thereof by the department to the conditional licensee or, if the licensee cannot be reached for personal service, by notice thereof left at the licensed premises. The fee for such temporary or conditional license for agencies is \$10. A new application for a regular license may be considered by the department if, when and after the conditions set forth by the department at the time of issuance of the temporary or conditional license have been met and satisfactory evidence of this fact has been furnished to the department. When the department believes a license should be suspended or revoked, it shall file a statement or complaint with the Administrative Court Judge designed in Title 4, chapter 25. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with the Administrative Court Judge.

The term "agency for the provision of mental health services" as used in this section means any agency maintained and operated by any person, firm, association or corporation for the purpose of providing out-patient counselling and other psychological and psychiatric, diagnostic or therapeutic services and other allied services. The term "agency for the provision of mental health services" does not mean the individual or corporate professional practice of any one or more psychologists or any one or more psychiatrists.

Whoever violates this section is guilty of a Class E crime.

Sec. 2. 34 MRSA c. 183, as amended, is repealed.

STATEMENT OF FACT

This bill makes the Department of Mental Health and Corrections responsible for ensuring the provision of certain community mental health services and provides for a system to coordinate the planning, development and provision of those services.

Insofar as the State has, since 1960, provided tax support to community mental health activities and has, since 1964, encouraged and financially supported the development of Community Mental Health Centers or Area Boards, this legislation capitalizes on that substantial investment by ensuring the continuance of the Community Mental Health Centers or Area Boards as the primary community or area entities responsible for the planning and provision of community mental health services. This Act shall also serve to ensure compliance with the United States Mental Health Systems Act of 1980.