

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1078

H. P. 912

House of Representatives, March 2, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Manning of Portland.

Cosponsors: Senator Bustin of Kennebec and Representative Holloway of Edgecomb.

STATE OF MAINE

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

AN ACT Authorizing and Directing the Bureau of Mental Health to Enhance and Protect the Rights of Recipients of Mental Health Services.

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

Sec. 1. 34 MRSA § 2004 is enacted to read:

§ 2004. Rules

1. Rules promulgated. The Bureau of Mental Health shall promulgate rules for the enhancement and protection of the rights of persons receiving services from the department, from any hospital pursuant to chapter 191 or from any program or facility administered or licensed by the department pursuant to section 2052-A. These rules may include, but not be limited to, the following:

- A. The provision of treatment and related services in the least restrictive appropriate setting;
- B. The right of an individualized treatment or service plan, to be developed with the participation of the client;
- C. Standards for informed consent to treatment and guidelines for exceptions to informed consent as permitted under applicable law or in emergency situations;

- D. Standards for participation in experimentation and research;**
 - E. Standards pertaining to the use of seclusion and restraint;**
 - F. The right to appropriate privacy and to a humane treatment environment;**
 - G. The right to confidentiality of records and procedures pertaining to a person's right to access to his mental health care records;**
 - H. The right to receive visitors and to communicate by telephone and mail;**
 - I. Procedures to ensure that clients are notified of their rights;**
 - J. The right to assistance of a right's protection or advocacy service in the exercise or protection of that person's rights; and**
 - K. Provision for a fair, timely and impartial grievance procedure for the purpose of ensuring appropriate administrative resolution of grievances with respect to infringement of that person's rights.**
- 2. Public hearing. The bureau shall hold a public hearing prior to adopting these rules. Notice of the public hearing shall be given pursuant to the Maine Administrative Procedure Act, Title 5, section 8053.**

Sec. 2. 34 MRSA § 2253 is repealed.

Sec. 3. 34 MRSA § 2254, as last amended by PL 1979, c. 469, § 4, is repealed.

STATEMENT OF FACT

The United States Mental Health Systems Act, Public law 96-398, approved and signed into Law October 7, 1980, directed that "each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require; and in making such review and revision should take into account the recommendations of the President's Commission on Mental Health...." (PL 96-398, Title V, Sec. 501). This bill would empower and direct the Bureau of Mental Health to establish rules to meet the mandate of the federal legislation.