

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1412

6
7 S.P. 463

In Senate, April 5, 1983

8 Referred to the Committee on Health and Institutional Services. Sent
9 down for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Gill of Cumberland.

Cosponsor: Representative Nelson of Portland.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Require Discharge Planning
18 for Mental Health Patients.
19

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

22 Sec. 1. 34 MRSA §2251, sub-§§1-A and 1-B are
23 enacted to read:

24 1-A. Aftercare. "Aftercare" means those ser-
25 vices offered to a patient in a community setting,
26 after hospitalization, within the framework of an
27 individual discharge plan.

28 1-B. Discharge plan. "Discharge plan" means the
29 plan formulated with the patient, his guardian, 2
30 representatives designated by the patient, appropri-
31 ate community service providers, a social worker who
32 participated in the treatment plan and other hospital
33 representatives. The plan shall address the

1 post-hospitalization needs of the patient and the
2 necessity for continuing hospital monitoring.

3 Sec. 2. 34 MRSA §2251, sub-§3-A is enacted to
4 read:

5 3-A. Individual treatment plan. "Individual
6 treatment plan" means the plan, formulated on admis-
7 sion by a team, including the patient, his guardian,
8 his designated representatives and hospital staff,
9 including a social worker. The plan shall be the
10 basis for care during the period of hospitalization
11 and for the discharge plan.

12 Sec. 3. 34 MRSA §2254, as amended by PL 1979, c.
13 469, §4, is further amended to read:

14 §2254. Right to communication and visitation; desig-
15 nation of representatives

16 Every patient shall be entitled:

17 1. Mail. To communicate by sealed envelopes with
18 the department, clergyman or his attorney and with
19 the court, if any, which ordered his hospitalization,
20 and to communicate by mail in accordance with the
21 regulations of the hospital;

22 2. Visitors. To receive visitors unless defi-
23 nitely contraindicated by his medical condition;
24 except he may be visited by his clergyman or his
25 attorney at any reasonable time.

26 3. General rights. Except to the extent that the
27 head of the hospital or residential care facility
28 determines that it is necessary for the medical wel-
29 fare of the patient to impose restrictions, and
30 unless a patient has been adjudicated incompetent and
31 has not been restored to legal capacity and except
32 where specifically restricted by other statute or
33 regulation, but not solely because of the fact of
34 admission to a mental hospital or residential care
35 facility for the mentally ill, to exercise all civil
36 rights, including, but not limited to, civil service
37 status, the right to vote, rights relating to the
38 granting, renewal, forfeiture or denial of a license,
39 permit, privilege or benefit pursuant to any law, and

1 the right to enter contractual relationships and to
2 manage his property.

3 A. Any limitations imposed by the head of the
4 hospital or residential care facility on the
5 exercise of these rights by the patient and the
6 reasons for such limitations shall be made a part
7 of the clinical record of the patient.

8 4. Designated representatives. At the time of
9 admission, the patient shall be advised of his right,
10 regardless of whether he has a guardian, to designate
11 2 representatives who shall be advised of his admis-
12 sion and discharge, and of his right and that of his
13 representatives to participate in the formulation of
14 an individual treatment plan and a discharge plan.

15 A. If the patient has a guardian, the guardian
16 shall have the same right as the designated
17 representatives to be advised of the patient's
18 admission and discharge and the right to partici-
19 pate in the formulation of an individual treat-
20 ment plan and a discharge plan.

21 B. If the patient has no guardian, and does not
22 designate at least one representative, the facil-
23 ity shall select 2 representatives, unless the
24 patient objects. The first representative se-
25 lected by the facility shall be made from the
26 following list in the order of listing. The 2nd
27 representative selected by the facility shall be
28 from the following list without regard to the
29 order of listing:

- 30 (1) Patient's spouse;
31 (2) Parent;
32 (3) Adult child;
33 (4) Adult next of kin;
34 (5) Friend;
35 (6) Clergyman of choice;

1 (7) Lawyer or advocate of choice;

2 (8) Aftercare worker or case manager; or

3 (9) Personal physician or therapist.

4 5. Records; thorough examination. All relevant
5 psychiatric and medical records of the patient shall
6 be obtained within a week of his admission. A com-
7 plete and thorough psychiatric and medical examina-
8 tion shall be given within one week after the
9 patient's admission.

10 Sec. 4. 34 MRSA §2290, as amended by PL 1975, c.
11 770, §201, is further amended to read:

12 §2290. Informal admission

13 Any person desiring admission to a hospital for
14 the mentally ill for care and treatment of a mental
15 illness, may be admitted, subject, except in case of
16 medical emergency, to the availability of suitable
17 accommodations, as a patient without making formal
18 application therefor, although standard hospital
19 information may be elicited, if, after examination,
20 the head of the hospital deems ~~such~~ that person suit-
21 able for ~~such~~ the admission, care and treatment. Any
22 person under the age of 18 years must have the con-
23 sent of his parent or guardian, and, in the case of
24 an admission to a hospital for the mentally ill other
25 than a private hospital, the consent of the Commis-
26 sioner of Mental Health and Corrections or his desig-
27 nee. Any such patient shall be free to leave ~~such~~
28 the hospital at any time after admission; this shall
29 not preclude the admission of any such person to a
30 hospital under section 2333 when at any time ~~such~~
31 that admission is considered necessary in the inter-
32 est of the patient and of the community. The head of
33 the hospital admitting the individual shall forthwith
34 make a report thereof to the department. The head of
35 the hospital shall cause every patient admitted pur-
36 suant to this section to be informed at the time of
37 admission of his status as an informally admitted
38 patient, of the availability of discharge planning
39 for services, as defined in section 2251, subsection
40 1-B, and section 2374-A, and of his freedom to leave
41 the hospital at any time subject to this section.

1 Sec. 5. 34 MRSA §2333, sub-§2, ¶C, as repealed
2 and replaced by PL 1977, c. 429, §3, is repealed and
3 the following enacted in its place:

4 C. Upon admission of a person under this
5 section, and after consultation with the person,
6 which informs him of his right under section 2254
7 to designate 2 representatives to participate in
8 actions, notice of the fact of admission shall be
9 given by phone or in person, and mailed to his
10 guardian, if known, and his designated repre-
11 sentatives within 24 hours of admission unless
12 the patient objects. If the patient has objected
13 to the facility naming representatives, the
14 notice shall be given to his spouse or parent or
15 adult child, or, if none of these persons exists
16 or if their whereabouts are unknown, then to one
17 of his next of kin or a friend within 24 hours of
18 admission unless the patient objects. The date
19 on which the notice of admission was given and a
20 copy of the notice shall be entered on the
21 patient's clinical record.

22 Sec. 6. 34 MRSA §2234, sub-§2, ¶B, as enacted by
23 PL 1977, c. 429, §4, is repealed and the following
24 enacted in its place:

25 B. To be mailed to the patient's guardian, if
26 known, and his 2 designated representatives
27 within 24 hours of admission unless the patient
28 objects. If the patient has objected to the
29 facility naming representatives, the notice shall
30 be given to his spouse or parent or one of his
31 adult children; or, if none of these persons
32 exist or if their whereabouts are unknown, to one
33 of his next of kin or a friend. The date on
34 which the notice was mailed and copy of the
35 notice shall be entered on the patient's clinical
36 record.

37 Sec. 7. 34 MRSA §2334, sub-§4, ¶E, as enacted by
38 PL 1977, c. 429, §4, is amended to read:

39 F. The applicant in each case shall submit to
40 the court, at the time of hearing, testimony
41 indicating the individual treatment plan which
42 has been developed in conjunction with the

1 patient and his guardian or 2 designated repre-
2 sentatives and which is to be followed by the
3 hospital staff in the event of commitment under
4 this section. Any expense for witnesses for this
5 purpose shall be borne by the applicant.

6 **Sec. 8.** 34 MRSA §2334, sub-§5, ¶A, as enacted by
7 PL 1977, c. 429, §4, is amended to read:

8 A. If, upon completion of the hearing and con-
9 sideration of the record, the District Court:

10 (1) Finds clear and convincing evidence
11 that the patient is mentally ill and that
12 his recent actions and behavior demonstrate
13 that his illness poses a likelihood of
14 serious harm as defined in section 2251,
15 subsection 7, paragraph A, B or C;

16 (2) Finds that inpatient hospitalization is
17 the means best available for treatment of
18 the patient; and

19 (3) Is satisfied with the individual treat-
20 ment plan offered by the hospital and its
21 discharge planning process;

22 it shall so state in the record. If the District
23 Court makes the findings described in
24 subparagraphs (1) and (2), but is not satisfied
25 with the individual treatment plan as offered, it
26 may continue the case for not longer than 10 days
27 pending reconsideration and resubmission of an
28 individual treatment plan by the hospital.

29 **Sec. 9.** 34 MRSA §2372, as amended by PL 1975, c.
30 559, §15, is repealed and the following enacted in
31 its place:

32 §2372. Examination of new patients

33 1. Immediate examination; immediate discharge.
34 Every patient admitted to a hospital shall be given a
35 psychiatric and medical examination within 24 hours.
36 The head of the hospital shall arrange for the exami-
37 nation by a staff physician and clinical psychol-
38 ogist, who shall not be the certifying examiner under

1 section 2333 or 2334. If such an examination is not
2 held within 24 hours after the time of admission, or
3 if a staff physician or clinical psychologist fails
4 or refuses after the examination to certify that in
5 his opinion the patient is a mentally ill individual
6 and due to his mental illness poses a likelihood of
7 serious harm as defined in section 2251, subsection
8 7, paragraph A, B or C, the patient shall be immedi-
9 ately discharged.

10 2. Records; thorough examination. All relevant
11 psychiatric and medical records of the patient shall
12 be obtained within a week of his admission. A com-
13 plete and thorough psychiatric and medical examina-
14 tion shall be given within one week after the
15 patient's admission.

16 Sec. 10. 34 MRSA §2374, as amended by PL 1981,
17 c. 59, §1, is repealed.

18 Sec. 11. 34 MRSA §§2374-A and 2374-B are enacted
19 to read:

20 §2374-A. Discharge; discharge plan

21 1. Examination. The head of the hospital shall,
22 as frequently as practicable, but no less often than
23 every 12 months, examine or cause to be examined,
24 every patient to determine his mental status and need
25 for continuing hospitalization.

26 2. Plan. Prior to discharge, unless the patient
27 objects, a written discharge plan shall be prepared
28 with the active participation of the patient, a
29 social worker who participated in the treatment team,
30 his guardian, 2 designated representatives, repre-
31 sentatives of community service providers and rele-
32 vant others, to address and assure the meeting of the
33 patient's needs upon his discharge from the institu-
34 tion. Failure of the guardian or the 2 designated
35 representatives to participate in the planning pro-
36 cess shall not relieve the hospital of the responsi-
37 bility to prepare a discharge plan. The needs shall
38 include, but not be limited to, those for:

39 A. Professional medical and psychological ser-
40 vices;

- 1 B. Housing;
- 2 C. Transportation from the hospital;
- 3 D. Medication;
- 4 E. Employment training;
- 5 F. Education;
- 6 G. Income, including funds for medication;
- 7 H. Socialization; and
- 8 I. Aftercare services, including community
9 referrals.

10 3. Dissemination. One week prior to discharge,
11 unless the patient objects in writing, a copy of the
12 plan shall be sent to all discharge planning team
13 members, and the service agencies, providers or indi-
14 viduals named in the plan.

15 4. Appointments. Unless the patient objects in
16 writing, the hospital shall make the appropriate
17 appointments for the patient with the named agencies,
18 providers or individuals. Site visits for residen-
19 tial placement and other appropriate referrals named
20 in the plan shall also be arranged prior to
21 finalization of the discharge plan.

22 5. Prior notice. Unless the patient objects in
23 writing, the hospital shall give prior notice of dis-
24 charge to the patient's guardian and 2 designated
25 representatives by telephone or in person, and the
26 time and date on which the notice was given shall be
27 entered on the patient's record and the discharge
28 plan.

29 6. Medication card. The hospital shall provide
30 to the patient upon discharge a medication card,
31 which specifies the patient's medication, prescrip-
32 tion, instructions and side effects. A copy of the
33 medication card shall be part of the discharge plan,
34 unless the patient objects, and requests otherwise in
35 writing.

1 7. Written notice. Unless the patient objects,
2 the hospital shall send written notice of the
3 patient's discharge, a copy of his discharge plan and
4 any summary of it within 24 hours after discharge to
5 the patient's guardian and 2 designated representa-
6 tives. The date on which the notice was mailed and a
7 copy of the notice and summary shall be entered on
8 the patient's record.

9 8. Assurance for discharge. No patient may be
10 discharged without his consent if his housing needs
11 in the community and provision for supply of and pay-
12 ment for medication have not been assured.

13 §2374-B. Follow-up

14 Within 2 weeks after discharge, the hospital
15 shall contact all service agencies, providers and
16 individuals named in the discharge plan to evaluate
17 the status of referrals. A copy of the results of
18 the evaluation shall be sent to all members of the
19 discharge team. The results of the evaluation,
20 together with any follow-up, shall also be entered on
21 on the patient's record.

22 Evaluation and monitoring of the implementation
23 of the discharge plan shall continue for a period of
24 6 months following the patient's discharge. At the
25 end of the 6-months period, the hospital shall con-
26 duct a final evaluation of the follow up, document it
27 on the patient's record, and send a copy of the final
28 evaluation to all members of the discharge team.

29 STATEMENT OF FACT

30 The purpose of this bill is to improve mental
31 health institute discharge planning by increasing the
32 participation of patients, their families or inter-
33 ested others and community provider representatives
34 in the discharge planning process, and by facili-
35 tating communication between mental health institutes
36 and the community. This bill defines and establishes
37 a discharge planning team, defines and provides stan-
38 dards for content of the plan and assures that neces-
39 sary services are provided to patients after dis-
40 charge. This bill strengthens the rights of patients

1 and their families to be informed of and to partici-
2 pate actively in decisions affecting their lives.

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