

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1917

6
7 H.P. 1363

House of Representatives, January 21, 1986

8 Submitted by the Department of Mental Health and Mental Retardation
pursuant to Joint Rule 24.

9 Reference to the Committee on Human Resources suggested and ordered
printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Nelson of Portland.

Cosponsored by Senator Gauvreau of Androscoggin.

11
12 STATE OF MAINE
13

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

17 AN ACT to Remove Barriers to the Appropriate
18 Disclosure of Mental Health
19 Information.
20

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

23 34-B MRSA §1207, sub-§1, ¶A, as enacted by PL
24 1983, c. 459, §7, is amended to read:

25 A. A client, his legal guardian, if any, or, if
26 he is a minor, his parent or legal guardian may
27 give his informed written consent to the disclo-
28 sure of information, if he has been given the op-
29 portunity to review the information sought to be
30 diseased;

1 STATEMENT OF FACT

2 Deletion of the indicated clause in the Maine Re-
3 vised Statutes, Title 34-B, section 1207, subsection
4 1, paragraph A, will remove a barrier to the timely
5 and appropriate disclosure of patient information
6 when requested by the client, his legal guardian, or,
7 if he is a minor, his parent or legal guardian. The
8 indicated clause in the current law has been consist-
9 ently interpreted by the Attorney General to prohibit
10 disclosure, even though authorized by the patient or
11 his legal representative, unless the patient has re-
12 viewed the information sought to be disclosed or af-
13 firmatively waives this right to review. It is be-
14 lieved that Maine is the only State with this prior
15 review stipulation in its laws. This prior review
16 stipulation creates occasional problems when release
17 forms are received from out-of-state or federal agen-
18 cies which do not address the prior review question.
19 Refusal by a state institution or agency to process
20 an out-of-compliance release form may lead to delays
21 in diagnosis and treatment at another institution or
22 to delay in getting a federal entitlement. Since the
23 state stipulation is unique, these federal agencies
24 or out-of-state institutions and even individual
25 expatients, interpret attempts to enforce the stipu-
26 lation as bureaucratic unresponsiveness.

27 It should be noted that the clause sought to be
28 deleted is not necessary to protect a client's right
29 to review his record. Access to mental health
30 records is ensured by rules promulgated pursuant to
31 the Maine Revised Statutes, Title 34-B, section 3003,
32 subsection 2, paragraph G. The proposed statutory
33 change will not result in additional disclosure of
34 information not desired by the patient, since the
35 patient's (or his legal guardian's) signature will
36 still be required.

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