

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1074

S.P. 408

In Senate, April 6, 1989

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

Cosponsored by Senator TITCOMB of Cumberland, Representative BURKE of Vassalboro and Representative PEDERSON of Bangor.

STATE OF MAINE

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

An Act Relating to the Maine Commission on Mental Health.

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
2 become effective until 90 days after adjournment unless enacted
3 as emergencies; and

5 Whereas, the Maine Commission on Mental Health is charged
6 with assisting in identifying an immediate solution to the
7 deficits at the Augusta Mental Health Institute and the Bangor
8 Mental Health Institute identified by the Joint Select Committee
9 to Study Overcrowding at the Augusta Mental Health Institute and
10 the Bangor Mental Health Institute; and

11 Whereas, the Maine Commission on Mental Health is newly
12 formed and charged with a serious task of an emergency nature; and

15 Whereas, the reasons for Medicare decertification at the
16 Augusta Mental Health Institute have yet to be addressed or
17 remedied; and

19 Whereas, the recent findings of an advisory panel
20 investigating 3 deaths at the Augusta Mental Health Institute
21 indicate ongoing deficiencies in the care and treatment of
22 patients at that facility similar to those identified by the
23 Maine Health Care Finance Commission; and

25 Whereas, there is an error in the original bill which
26 affects the commission's ability to report on, respond to and
27 make recommendations about needed reforms; and

29 Whereas, the commission has been charged with making an
30 independent evaluation of the programs and services provided by
31 the Department of Mental Health and Mental Retardation; and

33 Whereas, in the judgment of the Legislature, these facts
34 create an emergency within the meaning of the Constitution of
35 Maine and require the following legislation as immediately
36 necessary for the preservation of the public peace, health and
37 safety; now, therefore,

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

41 **Sec. 1. 34-B MRSA §3901, sub-§§1 and 2, as enacted by PL 1987,**
42 **c. 887, §8, are amended to read:**

43 **1. Establishment.** In order to monitor and evaluate the
44 efficacy and timely implementation of community and institutional
45 reform programs designed to improve opportunities for persons
46 with mental illness in the State, to promote and monitor advocacy
47 programs for persons with mental illness and to develop, review,
48 and assess and monitor the ~~development--and~~ implementation of
49 standards of care and treatment for persons with mental illness,
50 there is established an independent commission to be known as the
51

1 Maine Commission on Mental Health, hereinafter referred to in
this chapter as the "commission."

3
2. Membership. The commission shall consist of ~~21~~ 22
5 members, including 11 appointed by the Governor and ~~10~~ 11 jointly
appointed by the President of the Senate and the Speaker of the
7 House. One of the members jointly appointed by the President of
the Senate and the Speaker of the House shall be a primary
9 consumer of mental health services. In making these appointments
to the commission, the Governor, the President of the Senate and
11 the Speaker of the House shall consider and appoint residents of
the State who have a knowledge of problems facing persons with
13 mental illness in the State and who provide leadership in
programs or activities which are carried out to improve
15 opportunities for persons with mental illness. The Governor
shall select a person from among the gubernatorial first
17 appointees to serve as chairman chair. Subsequent chairs shall
be selected by majority vote of the members of the Maine
19 Commission on Mental Health. The initial appointments to this
commission shall be made within 30 days of the effective date of
21 this subchapter.

23 Sec. 2. 34-B MRSA §3902 as enacted by PL 1987, c. 887, §8,
is amended to read:

25
27 **§3902. Powers and duties**

The commission has the powers and duties to advise and
29 consult with the Governor and the Legislature about improving
care, treatment and programming for persons with mental illness
31 in the State. The commission has the following powers and duties:

33 1. Assistance to persons with mental illness. To ~~recomm~~ recommend
develop a program of citizen advocates who are available, upon
35 the request of a person with mental illness or that person's
legal guardian, to assist in the treatment and program planning
37 process with the patient, both in the institutes and in the
community, and to otherwise act in a supportive role for
39 individual persons with mental illness and to monitor the
effectiveness of all ~~adveeae~~ advocacy programs for persons with mental
41 illness;

43 2. Standards. To work in a collaborative fashion with the
department ~~to--review--and--comment--on~~ in the development and
45 implementation of standards of care and treatment of persons with
mental illness;

47
49 3. Reform programs. To monitor and evaluate the efficiency
and timeliness of community and institutional reform programs
designed to improve opportunities for persons with mental illness;

51

1 4. Recommendations concerning state mental health
2 institutes. To make recommendations to the commission
3 commissioner on the management of the state mental health
4 institutes. These recommendations shall include, but not be
5 limited to, those prepared by the subcommittee on state mental
6 health institutes;

7
8 5. Subcommittee on state mental health institutes. To
9 create a subcommittee from the membership of the commission
10 exclusively to monitor--and--evaluate--the--state--mental--health
11 institutes.---The--subcommittee--shall--monitor--and--evaluate--the
12 development--and--implementation--of--standards--of--care--and--treatment
13 at--the--state--mental--health--institutes--and--inspect--the--institutes;
14 develop standards of care and treatment for patients at the
15 Augusta Mental Health Institute and the Bangor Mental Health
16 Institute. These standards shall be developed and presented to
17 the joint standing committee of the Legislature having
18 jurisdiction over human resource matters no later than April 15,
19 1989. That committee may determine whether to present the
20 standards to the Legislature for statutory adoption or to adopt
21 them in accordance with the procedures established under Title 5,
22 sections 8051, 8052 and 8053. The subcommittee shall monitor and
23 evaluate the implementation of these standards of care. The
24 recommended standards shall cover at least the following areas:

25
26 A. The standards shall ensure the creation of an
27 environment which affords patients privacy, dignity, comfort
28 and sanitation, including attractive, comfortable and
29 spacious living and sleeping areas; secure and accessible
30 areas for storage of clothing and other personal belongings;
31 and comfortable temperature and adequate ventilation in all
32 areas, including seclusion rooms;

33
34 B. The standards shall guarantee that each patient receive
35 individualized treatment and active programming in
36 accordance with a written plan which provides for the
37 integrated delivery of medical, psychological, social,
38 recreational, vocational, educational and other related
39 services according to patient needs;

40 C. The commission shall develop standards governing
41 admission procedures to assure that patients are afforded
42 full protection of the laws pertaining to civil commitment
43 and that medical, social and psychological information is
44 considered during admission procedures;

45
46 D. The standards shall mandate maintenance of patient and
47 staff ratios which ensure adequate care, treatment and
48 rehabilitative services. These ratios shall be designed on
49 a ward-by-ward basis and shall be based upon the treatment,
50 safety and programmatic needs of patients;

1 E. The standards shall assure that, from the date of a
3 patient's admission, institute staff begin coordinating
5 community services and resources to assure that, upon a
7 patient's discharge, the patient's housing, financial and
9 treatment needs will be met; and

11 F. Development of standards for identification, definition,
13 resolution and reporting of extraordinary events that arise
15 during the care and treatment of patients. Such events
17 shall include, but not be limited to, medical problems,
19 medical treatment, injuries resulting from the use of
21 seclusion and restraint and altercations between patients;

23 **6. Staff; compensation.** To appoint a full-time executive
25 director who shall serve at the pleasure of the commission and
27 who shall not be subject to the civil service laws or approval of
29 the department, the Governor or the Legislature. The executive
31 director is entitled to compensation in an amount to be
33 determined by the commission within the same pay range authorized
35 for the Executive Director of the Human Services Council. The
37 executive director shall perform those duties as assigned by the
39 commission. The commission may employ a secretary as it deems
41 necessary. The commission may request department staff, as
43 needed, to assist the commission in carrying out its functions
45 and duties. The executive director may make recommendations to
47 the commission;

49 **7. Meetings.** To conduct public hearings, conferences,
51 workshops and other such meetings to obtain information about,
53 discuss and publicize the needs of and solutions to problems of
55 persons with mental illness in Maine;

57 **8. Advise.** To act in an advisory capacity to the
59 commissioner in the development of the state mental health plan
61 and in the appointment of a Director of the Bureau of Mental
63 Health. The commission shall act in an advisory capacity to the
65 commissioner, the Governor and the Legislature on mental health
67 matters; and

69 **9. State mental health plan.** To participate in the
71 development of the state mental health plan required by section
73 3006; and

75 **10. Prepare legislation.** The Maine Commission on Mental
77 Health, in consultation with the Department of Mental Health and
79 Mental Retardation, mental health professionals and others as
81 deemed necessary, shall draft a model law governing the delivery
83 of mental health services throughout the State, including
85 standards of care adopted under section 3902, subsection 5, for
87 distribution to the Legislature in January 1990. This model
89 shall include at least:

1 A. A formula funding mechanism for a base budget using a
3 unit cost of services identified by the patient functional
assessment system;

5 B. A mechanism for assuring that state hospital patients
7 and community members in need of help are offered a complete
9 medical and psychiatric assessment, including evaluation and
correction of medical problems, the evaluation and treatment
of psychiatric problems and a plan for community placement
when appropriate;

11 C. A range of residential options, from psychiatric
13 boarding homes to independent apartments, and guidelines for
staff ratios;

15 D. Work training and career counseling programs and the
17 development of work opportunities;

19 E. Skill training in the activities of daily living for
21 state hospital and community patients and social and
recreational opportunities;

23 F. Transportation services for clients of community and
25 state hospitals and the consideration of client
transportation in funding decisions;

27 G. Client level coordination of resources and a case
29 management plan for state hospital and community patients;

31 H. Crisis stabilization services; and

33 I. Procedures for the treatment and care of involuntary
patients and for the treatment of persons with mental
illness in nursing homes.

35 **Emergency clause.** In view of the emergency cited in the
37 preamble, this Act shall take effect when approved.

39
41 **STATEMENT OF FACT**

43 This bill corrects an error in the original bill,
45 establishes clear independence for the commission in hiring staff
47 and selecting a chair, adds a primary consumer member, clarifies
49 the responsibilities of the subcommittee on state mental health
institutes and includes several of the recommendations made by
the Joint Select Committee to Review Overcrowding at the Augusta
Mental Health Institute and the Bangor Mental Health Institute.

51 The emergency nature of the legislation is stated in the
preamble.