

MAINE STATE LEGISLATURE

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DATE: 3/7/94

(Filing No. H- 805)

HUMAN RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 759, L.D. 1026, Bill, "An Act to Clarify the Requirements of Disclosure of Information Pertaining to Mentally Disabled Clients"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 34-B MRSA §1207, sub-§5 is enacted to read:

5. Permitted disclosure. Notwithstanding subsections 1 to 4, a licensed mental health professional providing care and treatment to an adult client may provide information authorized by this subsection to a family member or other person if the family member or other person lives with or provides direct care to the client, if without the disclosure there would be significant deterioration in the client's daily functioning and if the disclosure is in the best interest of the client.

A. Disclosure may be made only at the written request of the family member or other person living with the client.

B. Prior to the disclosure, the client must be informed in writing of the request, the name of the person requesting the information, the reason for the request and the specific information being provided. Information may not be disclosed unless the client, having received written notice of the request, consents to the disclosure. If the client does not consent to the disclosure, the person requesting the information may appeal to the department for authorization to disclose the information over the objections of the client.

COMMITTEE AMENDMENT

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C. Disclosures are limited to information regarding diagnosis, admission to or discharge from a treatment facility, the name of any medication prescribed, side effects of that medication, the likely consequences of failure of the client to take the prescribed medication, treatment plans and goals and behavioral management strategies.

D. By September 1, 1994, the department shall adopt rules to implement this subsection. The rules must include, but are not limited to, an appeal process for persons who are denied access to information under paragraph B. The appeal process must determine whether the person requesting information is a person who lives with or provides direct care to a client, whether disclosure of the information is in the best interest of the client and whether denial of access to the information will result in significant deterioration in the client's daily functioning. The commissioner shall appoint an advisory committee to assist the department in the development of the rules. The advisory committee must include, but is not limited to, proportionate representation from each of the following:

- (1) Consumers nominated by the Director of the Office of Consumer Affairs;
- (2) Members of the statewide alliance for the mentally ill;
- (3) Mental health service providers; and
- (4) The protection and advocacy agency designated pursuant to Title 5, section 19502.

FISCAL NOTE

The Department of Mental Health and Mental Retardation will incur some minor additional costs to establish the advisory committee, adopt rules and create an appeals process. These costs can be absorbed within the department's existing budgeted resources.'

STATEMENT OF FACT

This amendment clarifies that persons permitted to release information under the bill are licensed mental health

COMMITTEE AMENDMENT "A" to H.P. 759, L.D. 1026

2 professionals. The amendment also allows clients to refuse
3 requests for information and directs the Department of Mental
4 Health and Mental Retardation to establish an appeal process that
5 may be used by persons who are denied access to information. The
6 department is directed to work with consumers, providers, family
7 members and advocates in developing the appeal process and other
8 rules needed to implement the law. The amendment also adds a
fiscal note to the bill.

COMMITTEE AMENDMENT