

MAINE STATE LEGISLATURE

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RAS

L.D. 156

DATE: 4.1.04

(Filing No. S-482)

HEALTH AND HUMAN SERVICES

Reported by:

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 79, L.D. 156, Bill, "An Act to Require that Patients in Private Mental Hospitals Be Afforded the Same Rights As Patients in State Mental Institutions"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

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

Whereas, a patient receiving inpatient mental health services from a nonstate mental health institution that is not subject to the grievance procedures of the Department of Behavioral and Developmental Services does not have grievance rights equal to those of a patient in a state mental health institution or a nonstate mental health institution that is subject to the department's grievance procedures; and

Whereas, attaining as soon as possible parity of grievance procedures is fundamental to fairness among patients and is critical in the efforts of the State to achieve compliance with the Bates v. Walsh and Burdick consent decree; and

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

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

Sec. 1. 22 MRSA §1719 is enacted to read:

COMMITTEE AMENDMENT

§1719. Patients' rights

This section applies to hospitals licensed pursuant to chapter 405 that are nonstate mental health institutions as defined in Title 34-B, section 3801, subsection 6 and that are not subject to the grievance procedures of the Department of Behavioral and Developmental Services.

1. Adoption of rules. The commissioner shall adopt rules for the enhancement and protection of the rights of adult patients receiving inpatient mental health services from a hospital subject to the requirements of this section. The commissioner shall hold a public hearing before adopting rules under this section and shall give notice of the public hearing pursuant to Title 5, section 8053. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Rights protected. The rules adopted pursuant to subsection 1 must meet the requirements of Title 34-B, section 3003, subsection 2, paragraphs A to K and must provide for the same opportunity for hearing and type of hearing as described in rules of the Department of Behavioral and Developmental Services relating to grievances filed by adult mental health consumers.

3. Delegation. The department shall delegate to the Department of Behavioral and Developmental Services responsibility for hearing and resolving all grievances that are submitted in a timely manner by patients receiving inpatient mental health services in hospitals subject to the requirements of this section.

4. Final agency action. Final resolution of a grievance by the Department of Behavioral and Developmental Services under the rules adopted pursuant to subsection 1 is the final agency action of the department for the purposes of judicial review under Title 5, section 11001.

Sec. 2. Adoption of rules. The Commissioner of Human Services shall adopt rules as required by the Maine Revised Statutes, Title 22, section 1719 by August 1, 2004.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'

R.918

SUMMARY

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This amendment replaces the bill. It requires the Commissioner of Human Services to adopt rules by August 1, 2004 to protect the rights of adult patients receiving mental health services in hospitals licensed under the Maine Revised Statutes, Title 22, chapter 405 that are nonstate mental health institutions and are not subject to the grievance procedures of the Department of Behavioral and Developmental Services. It requires the commissioner to hold a public hearing before adopting rules and designates the rules as routine technical rules. It requires the rights protected under the rules to be consistent with the rights of recipients of mental health services that are applicable in other settings, including the same opportunity for hearing and type of hearing provided under Department of Behavioral and Developmental Services rules. It provides for delegation of authority for hearing grievances from the Department of Human Services to the Department of Behavioral and Developmental Services and designates the decision of the Department of Behavioral and Developmental Services as final agency action for purposes of judicial review. The amendment adds an emergency preamble and emergency clause to the bill.

FISCAL NOTE REQUIRED
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**



LD 156

An Act to Require that Patients in Private Mental Hospitals Be Afforded the Same Rights As Patients in State Mental Institutions

LR 0360(02)

Fiscal Note for Bill as Amended by Committee Amendment 'A'

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of Human Services and the Department of Behavioral and Developmental Services can be absorbed by the respective departments utilizing existing budgetary resources.