

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 156

S.P. 79

In Senate, January 21, 2003

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

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Reference to the Committee on Health and Human Services 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 BENNETT of Oxford.

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

2  
4       Sec. 1. 22 MRSA §1718 is enacted to read:

6       §1718. Patients' rights

8       1. Adoption of rules. The commissioner shall adopt rules  
10       consistent with rules adopted pursuant to Title 34-B, section  
12       3003 for the enhancement and protection of the rights of patients  
14       receiving services from any hospital for the treatment of mental  
16       illness required to be licensed pursuant to chapter 405. Rules  
18       adopted pursuant to this subsection are routine technical rules  
20       as defined in Title 5, chapter 375, subchapter 2-A.

22       2. Requirements. Rules adopted pursuant to subsection 1  
24       must include, but are not limited to:

26       A. Establishment of the right to provision of treatment and  
28       related services in the least restrictive appropriate  
30       setting;

32       B. Establishment of the right to an individualized  
34       treatment or service plan developed with the participation  
36       of the patient;

38       C. Standards for informed consent to treatment, including  
40       reasonable standards and procedural mechanisms for  
42       determining when to treat a patient absent the patient's  
44       informed consent, consistent with applicable law;

46       D. Standards for participation in experimentation and  
48       research;

E. Standards pertaining to the use of seclusion and  
      restraint;

F. Establishment of the right to appropriate privacy and to  
      a humane treatment environment;

G. Establishment of the right to confidentiality of records  
      and procedures pertaining to a patient's right to access to  
      that patient's mental health care records;

H. Establishment of the right to receive visitors and to  
      communicate by telephone and mail;

I. Procedures to ensure that patients are notified of their  
      rights;

2           J. Establishment of the right to assistance in protecting a  
4           right or advocacy service in the exercise or protection of a  
              right; and

6           K. Provisions for a fair, timely and impartial grievance  
8           procedure for the purpose of ensuring appropriate  
10          administrative resolution of grievances with respect to  
              infringement of rights, including the right of appeal before  
              an independent hearing officer.

12          3. Public hearing. The commissioner shall hold a public  
14          hearing before adopting these rules and shall give notice of the  
              public hearing pursuant to Title 5, section 8053.

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### SUMMARY

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20           The Maine Revised Statutes, Title 34-B, section 3003  
22           provides for the enhancement and protection of rights of clients  
24           receiving services from the Department of Behavioral and  
26           Developmental Services, from a state mental health institute or  
              from a private mental health institution under a contract with  
              the State to receive involuntary patients. This bill establishes  
              the same enhancement and protection of rights for patients  
              receiving services from a private hospital for the treatment of  
              mental illness.