

MAINE STATE LEGISLATURE

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HEALTH AND HUMAN SERVICES

Report B

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1315, L.D. 1875, Bill, "An Act To Improve Substance Abuse Rehabilitation Services"

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

Sec. 1. 5 MRSA §20005, sub-§§19 and 20, as enacted by PL 1993, c. 410, Pt. LL, §10, are amended to read:

19. Fiscal and program accountability. Enhance its current efforts to ensure fiscal and program accountability for the services it purchases and provides; and

20. Review policies. Review the full range of public policies and strategies existing in State Government to identify changes that would strengthen its response, identify policies that might discourage excessive consumption of alcohol and other drugs and generate new funding for alcohol and other drug services; and

Sec. 2. 5 MRSA §20005, sub-§21 is enacted to read:

21. License procedure. Beginning October 1, 2006, in accordance with section 20054, establish a licensing procedure for an opioid treatment program that requires approval of the municipality in which the program will be located prior to consideration of the license application by the office.

Sec. 3. 5 MRSA §20054 is enacted to read:

§20054. Municipal approval of opioid treatment program

Beginning October 1, 2006, the licensing procedure for an opioid treatment program must consist of 2 steps: approval of the municipality in which the opioid treatment program will be located in accordance with this section and consideration of the license application by the office.

1. File application with office. An applicant for approval of the opioid treatment program shall file an application in the form required by the office.

2. Contents of application. The application must contain the following.

A. The applicant shall disclose the entire ownership or any interest in the opioid treatment program for which approval is sought.

B. The applicant shall include in the application a description of the premises of the opioid treatment program to be approved and provide any other material information, description or plan of that part of the premises where the applicant proposes to provide treatment or administrative services for the opioid treatment program as the office requires.

C. The applicant shall sign the application.

3. False answer given intentionally. Any person who intentionally gives an untruthful answer in an application for approval of an opioid treatment program violates Title 17-A, section 453.

4. Application procedure. The applicant shall enclose the fee established by rule adopted by the office with the application for approval. The office shall forward a copy of the application to the municipality in which the opioid treatment program proposes to locate.

5. Hearings. The municipal officers may hold a public hearing on the application.

A. The municipal officers shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear at least 3 consecutive days before the

2 date of hearing in a daily newspaper having general
3 circulation in the municipality where the premises of the
4 opioid treatment program are located or one week before the
5 date of the hearing in a weekly newspaper having general
6 circulation in the municipality where the premises of the
7 opioid treatment program are located.

8 B. If the municipal officers fail to take final action on
9 an application within 60 days of the filing of an
10 application, the application is deemed approved and ready
11 for action by the office. For purposes of this paragraph,
12 the date of filing of the application is the date the
13 application is received by the municipal officers. This
14 paragraph applies to all applications pending before
15 municipal officers as of the effective date of this
16 paragraph as well as all applications filed on or after the
17 effective date of this paragraph.

18 6. Findings. In granting or denying an application, the
19 municipal officers shall indicate the reasons for their decision
20 and provide a copy to the applicant. An application for approval
21 may be denied on one or more of the following grounds:

22 A. Conviction of the applicant of any Class A, Class B or
23 Class C crime;

24 B. Noncompliance of the opioid treatment program premises
25 or its use with any local zoning;

26 C. With regard to an application to renew a license,
27 conditions of record such as waste disposal violations,
28 health or safety violations or repeated parking or traffic
29 violations on or in the vicinity of the opioid treatment
30 program premises and caused by persons receiving treatment
31 on the premises or other such conditions caused by persons
32 receiving treatment on the premises that unreasonably
33 disturb, interfere with or affect the ability of persons or
34 businesses residing or located in the vicinity of the
35 premises to use their property in a reasonable manner;

36 D. With regard to an application to renew a license,
37 repeated incidents of record of breaches of the peace,
38 disorderly conduct, vandalism or other violations of law on
39 or in the vicinity of the opioid treatment program premises
40 and caused by persons receiving treatment on the premises;
41 and

42 E. A violation of any provision of this chapter.

2 7. Appeal to office. Any applicant aggrieved by the
3 decision of the municipal officers under this section may appeal
4 to the office within 15 days of the receipt of the written
5 decision of the municipal officers. The office shall hold a
6 public hearing in the city or town where the opioid treatment
7 program is or is to be situated. In acting on such an appeal,
8 the office may consider all findings referred to in subsection
9 6. If the decision appealed from is an application denial, the
10 office may issue its approval and a license only if it finds that
11 the opioid treatment program meets the requirements of this
12 chapter and finds by clear and convincing evidence that the
13 decision of the municipal officers was without justifiable cause.

14 8. Appeal to Superior Court. Any person or governmental
15 entity aggrieved by a decision of the office under subsection 7
16 may appeal the decision to the Superior Court within 30 days of
17 receipt of the written decision of the office.'

20 **SUMMARY**

22 This is the minority amendment of the committee. This
23 amendment replaces the bill. It provides for opioid treatment
24 programs a municipal approval process substantially similar to
25 the municipal licensure process for liquor licenses. This
26 municipal process would apply prior to licensure by the
27 Department of Health and Human Services, Office of Substance
28 Abuse. The amendment includes an appeal process to the Office of
Substance Abuse and then an appeal to the Superior Court.

FISCAL NOTE REQUIRED
(See attached)



Approved: 03/01/06 *MAC*

122nd MAINE LEGISLATURE

LD 1875

LR 2742(03)

An Act To Improve Substance Abuse Rehabilitation Services

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

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services in implementing this bill can be absorbed by the department utilizing existing budgetary resources. Any additional revenue resulting from the fee imposed is assumed to be minor.