

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1119

S.P. 371

March 6, 2007

**An Act To Permit Mental Health Professionals To Disclose Risks to  
People Likely To Be Harmed by a Patient**

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Reference to the Committee on Judiciary 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 MILLS of Somerset.  
Cosponsored by Senator: NUTTING of Androscoggin.

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

2 **Sec. 1. 34-B MRSA §1207, sub-§5**, as amended by PL 1995, c. 560, Pt. K, §19,  
3 is further amended to read:

4 **5. Permitted disclosure.** Notwithstanding subsections 1 to 4, a licensed mental  
5 health professional providing care ~~and treatment to an adult~~ a client may provide  
6 information ~~authorized by this subsection to a family member or other person if the~~  
7 ~~family member or other person~~ who lives with or provides direct care to the client, if  
8 ~~without the disclosure there would be significant deterioration in the client's daily~~  
9 ~~functioning and if the disclosure is in the best interest of the client and is required for the~~  
10 client's effective care. A licensed mental health professional may disclose information  
11 about the mental or medical status of a client to those who may be affected by the client's  
12 conduct to the extent that such information is reasonably necessary to protect any person  
13 from risk of harm.

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

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

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

28 ~~D. By September 1, 1994, the department shall adopt rules to implement this~~  
29 ~~subsection. The rules must include, but are not limited to, an appeal process for~~  
30 ~~persons who are denied access to information under paragraph B. The appeal process~~  
31 ~~must determine whether the person requesting information is a person who lives with~~  
32 ~~or provides direct care to a client, whether disclosure of the information is in the best~~  
33 ~~interest of the client and whether denial of access to the information will result in~~  
34 ~~significant deterioration in the client's daily functioning. The commissioner shall~~  
35 ~~appoint an advisory committee pursuant to Title 5, section 12002, subsection 1,~~  
36 ~~paragraph A to assist the department in the development of the rules. The members~~  
37 ~~of the advisory committee are not entitled to reimbursement for expenses or~~  
38 ~~legislative per diem. The advisory committee must include, but is not limited to,~~  
39 ~~proportionate representation from each of the following:~~

40 ~~(1) Consumers nominated by the Director of the Office of Advocacy and~~  
41 ~~Consumer Affairs;~~

42 ~~(2) Members of the statewide alliance for the mentally ill;~~

