

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1375

H.P. 954

House of Representatives, April 11, 2017

**An Act To Prevent Overdose Deaths and Infectious Diseases by
Establishing Safer Drug Use Facilities**

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.
Cosponsored by Representatives: COLLINGS of Portland, JORGENSEN of Portland,
O'CONNOR of Berwick, PARKER of South Berwick, VACHON of Scarborough, WARREN
of Hallowell, Senators: BRAKEY of Androscoggin, CHENETTE of York.

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

2 **Sec. 1. 5 MRSA §20054** is enacted to read:

3 **§20054. Safer drug use facilities**

4 **1. Certification.** The department shall certify a safer drug use facility, referred to in
5 this section as "a facility," that in the department's determination meets the requirements
6 under subsection 2. A municipal health department under Title 22, section 411,
7 subsection 10, community-based organization, hospital or health center may apply to the
8 department for certification of a facility pursuant to this subsection with the consent of
9 the municipal officers of the municipality in which the facility is located. The department
10 shall notify the applicant of the department's determination within 45 days of receipt of
11 the application, and, if the department denies the application, the department shall include
12 with the denial a written explanation of the department's determination, including an
13 explanation of any defects in the application that may prevent the certification of the
14 proposed facility. An applicant who receives a denial under this subsection may appeal
15 the denial to the commission; a majority vote of the commission is binding. A denied
16 applicant may reapply for certification at any time after denial.

17 **2. Facility requirements.** In order to qualify for certification, a facility shall:

18 A. Provide a location supervised by a health care professional and other trained staff
19 where a client may self-administer previously obtained drugs;

20 B. Provide sterile drug use supplies, collect used hypodermic needles and syringes
21 and provide secure hypodermic needle and syringe disposal services;

22 C. Provide overdose prevention education;

23 D. Distribute or administer naloxone hydrochloride;

24 E. Provide testing for human immunodeficiency virus, viral hepatitis and sexually
25 transmitted infections and educate clients on the risks of contracting human
26 immunodeficiency virus, viral hepatitis and sexually transmitted infections;

27 F. Answer questions about safer injection practices;

28 G. Administer first aid, monitor clients for potential overdose and administer
29 medications to relieve an acute exacerbation of a health condition;

30 H. Provide referrals to services, including substance use disorder counseling and
31 treatment, reproductive health education and services and wound care; and

32 I. Provide reasonable and adequate security of the facility and equipment.

33 **3. Facility revenue.** A facility may bill an insurance carrier of a client for the costs
34 of covered services; accept a donation, grant or other financial assistance; and apply for a
35 grant from the department or any nonprofit or private organization.

36 **4. Report to department.** A facility shall collect and report to the department
37 aggregate demographic information, data acquired at the facility level and outcomes and
38 other information required by the department under subsection 5. A facility shall keep

1 private health information confidential in accordance with federal and state law regarding
2 confidentiality of personal health care information and may not disclose the information
3 without the explicit written consent of the client who is the subject of the health care
4 information, except as required by federal or state law. A facility shall provide a detailed
5 report under this subsection to the department on or before November 15th of each year
6 for the prior 12-month period ending on October 31st.

7 **5. Department duties.** The department shall define by rule the demographic data
8 and data acquired at the facility level to be collected and reported by a facility under
9 subsection 4 and evaluate the data provided by the facility to gauge program effectiveness
10 and identify best practices in the operation of a facility. The department shall evaluate the
11 effectiveness of all facilities certified under subsection 1 and submit a report of the
12 evaluation accompanied by individual facility reports to the joint standing committee of
13 the Legislature having jurisdiction over health and human services matters on or before
14 January 31st of each year.

15 **6. Immunity from arrest and prosecution.** A person acting in accordance with this
16 section, including a client who uses the services of a facility; a staff member and
17 contractor of a facility, including a health care professional, manager, employee and
18 volunteer; and a facility's owner, may not be:

19 A. Arrested, prosecuted or subject to any civil or administrative penalty, including
20 civil or disciplinary action by a professional licensing board;

21 B. Denied any right or privilege for involvement in the operation or use of services
22 of a facility; or

23 C. Subject to the seizure or forfeiture of any real or personal property used in
24 connection with a facility.

25 This subsection does not apply to a person engaging in any activity not authorized or
26 approved under this section.

27 **7. Tolerance zone.** A person may not be arrested, prosecuted or subject to a
28 revocation of probation for a violation of Title 17-A, section 1107-A, 1108, 1111 or
29 1111-A if the grounds for the arrest, prosecution or probation revocation were obtained
30 within 0.5 miles of the facility.

31 **8. Rules.** The department may adopt routine technical rules as defined by Title 5,
32 chapter 375, subchapter 2-A to carry out the provisions of this section.

33 **Sec. 2. Establishment of safer drug use facilities; review.** The Department
34 of Health and Human Services shall certify 2 safer drug use facilities under the Maine
35 Revised Statutes, Title 5, section 20054 in locations the department determines to most
36 effectively reach the appropriate populations in the State. The department shall review
37 the effectiveness of the facilities to determine whether to continue operation of the
38 facilities or certify additional facilities. On or before November 4, 2020, the department
39 shall submit a report on the review and the department's conclusions to the joint standing
40 committee of the Legislature having jurisdiction over health and human services matters.

1

SUMMARY

2 This bill directs the Department of Health and Human Services to certify 2 facilities
3 in the State to provide safe and secure locations for people to self-administer previously
4 obtained drugs. The bill requires the facilities to have health care personnel and other
5 trained staff, to provide information concerning drug overdoses and diseases associated
6 with drug use, to administer first aid or other medications in case of an overdose and to
7 provide referrals to other services clients of the facilities may need. The bill immunizes
8 from arrest or prosecution clients and staff members acting in accordance with the
9 provisions of the bill and creates a tolerance zone with 0.5 miles of the facility. The
10 facilities are directed to report certain demographic and other information to the
11 department, which is directed to analyze the information and report to the joint standing
12 committee of the Legislature having jurisdiction over health and human services matters.
13 The department is also directed to review the effectiveness of the facilities to determine
14 whether to open additional facilities.