

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

One Hundred and Seventh Legislature

AT THE

1ST SPECIAL SESSION

JANUARY 19, 1976 TO APRIL 29, 1976

AND

2ND SPECIAL SESSION

JUNE 14, 1976

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature
AT THE FIRST SPECIAL SESSION
January 19, 1976 to April 29, 1976
AND THE SECOND SPECIAL SESSION
June 14, 1976

Supplementary to the Acts and Resolves of the Regular Session

[supplied from page 3097 of volume]

3. Bureau. "Bureau" means the Bureau of Labor ~~and Industry~~.

Sec. 3. 26 MRSA § 563, sub-§ 4, as repealed and replaced by PL 1975, c. 519, § 13, is amended to read:

4. Director. "Director" means the Director of the Bureau of Labor ~~and Industry~~.

Sec. 4. 26 MRSA § 625-A, sub-§ 10, ¶ C, as enacted by PL 1975, c. 512, § 3, is amended to read:

C. That employee accepts employment at the new location; ~~and~~ or

Sec. 5. 26 MRSA § 663, sub-§ 3, ¶ A, is amended to read:

A. Any individual employed in agriculture as defined in the Maine Employment Security Law and the Federal Unemployment Insurance Tax Law, except when that individual performs services for or on a farm with over 300,000 laying birds;

Sec. 6. 26 MRSA § 965, sub-§ 3, ¶ D is enacted to read:

D. If the parties do not agree to follow the fact-finding procedures outlined in paragraphs A or B, they may jointly apply to the executive director or his designee to waive fact-finding. The executive director or his designee may accept or refuse to accept the parties' agreement to waive fact-finding and his decision shall not be reviewable.

Sec. 7. 26 MRSA § 1026, sub-§ 4, ¶ A, first sentence, as enacted by PL 1975, c. 603, § 1, is amended to read:

At any time after participating in the ~~initiation of mediation~~ procedures set forth in ~~pursuant to subsection~~ subsections 2 and 3, either party, or the parties jointly, may petition the board to initiate arbitration procedures.

Effective July 29, 1976

CHAPTER 718

AN ACT Relating to Mental Health and Retardation Programs in the Department of Mental Health and Corrections.

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

Sec. 1. 15 MRSA § 101, 3rd ¶, first sentence, as last amended by PL 1973, c. 547, § 1, is further amended to read:

If it is made to appear to the court by the report of any such examiner that the respondent suffers or suffered from a mental disease or mental defect affecting his criminal responsibility or his competence to stand trial or that further observation is indicated, the court may order the respondent to be further examined by a psychiatrist and a psychologist designated by the Commissioner of Mental Health and Corrections with such assistance as the designated examiners may deem necessary who shall determine the mental condition of the respondent. If the examination by such designees can be completed without admission, a report of the results of such completed examination shall be forwarded to the court forthwith. If the designated examiners of the Commissioner of Mental Health and Corrections determine that admission to an appropriate institution for the mentally ill or mentally retarded is necessary for complete examination, the examiners shall so notify the court which may order the respondent committed to the custody of the Commissioner of Mental Health and Corrections to be placed in an appropriate institution for the mentally ill or the mentally retarded, to be there detained and observed by the superintendent, or his delegate, and professional staff for a period of time not to exceed 60 days, for the purpose of ascertaining the mental condition of the respondent.

Sec. 2. 34 MRSA § 1-A, as enacted by PL 1975, c. 495, § 2, is repealed.

Sec. 3. 34 MRSA §§ 1-B, 1-C and 1-D are enacted to read:

§ 1-B. Disclosure of information

All orders of commitment, medical and administrative records, applications and reports and facts therein pertaining to any persons receiving services from the department, from any hospital pursuant to chapter 191, or from any facility licensed by the department pursuant to section 2052-A, shall be kept confidential and shall not be disclosed by any person except insofar:

1. **Consent of individual.** As the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, having been given the opportunity to review the information sought to be disclosed shall give his informed written consent;

2. **Necessity.** As disclosure may be necessary to carry out any of the statutory functions of the department, or the hospitalization provisions of chapter 191; or

3. **Court directive.** As may be ordered by a court of record subject to any limitations contained within the privileged communication provisions of Title 32.

As to persons receiving services pursuant to chapters 184-A, 184-B, 187 and from any facility licensed by the department pursuant to section 2052-A, nothing in this section shall preclude disclosure, upon proper inquiry, of information relating to the physical condition or mental status of an individual receiving such services to his spouse or next of kin; nor the disclosure of biographical or medical information concerning the individual to commercial or governmental insurers, or any other corporation, association or agency from which the department or licensee of the department may receive reimbursement for the care and treatment, education, training or support of the individual and the recipient of such information shall use it for no other purpose than to determine eligibility for reimbursement and if eligibility

exists, to make reimbursement; nor the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any individual receiving such services in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, provided that in the disclosure or use of any such information as part of a course of instruction or training program, the patient's identity shall remain undisclosed.

§ 1-C. Access to and transfer of information

1. Access to communications by persons engaged in research or statistical compilation. Persons engaged in statistical compilation or research may have access to treatment records of persons receiving services pursuant to chapters 184-A, 184-B, 187 and from any facility licensed by the department pursuant to section 2052-A, when needed for research, provided such access is approved by the director of the mental health facility or his designee and provided such communications and records shall not be removed from the mental health facility which prepared them. Data which does not identify patients or coded data may be removed from a mental health facility provided the key to such code shall remain on the premises of the facility. Where the person engaged in research or statistical compilation is to have access to communications and records, the research plan first shall be submitted to and approved by the head of the mental health facility or his designee. The head of the mental health facility, together with the person doing the research, shall be responsible for the preservation of the anonymity of the patient or recipient of service and shall not disseminate data which identifies the recipient by name, number or combination of characteristics which together could lead to his identification.

2. Transfer of information to Commissioner of Mental Health and Corrections; storage of records and communications. Any facility licensed by the department pursuant to section 2052-A or a facility which receives funds from the department or has or is receiving funds under the Mental Retardation and Community Mental Health Centers Construction Act of 1963, P.L. 88-164, as amended, shall transmit information and records, if requested, to the Commissioner of Mental Health and Corrections pursuant to his obligation to maintain the overall responsibility for the care and treatment of the mentally ill. The Commissioner of Mental Health and Corrections may collect and use such information and records for administration, planning or research, subject to section 1-B, subsection 3. Personally identifying data, other than case number or other code, shall be removed from all records and reports of information before issuance from the mental health facility which prepared them, and a code, the key to which shall remain in possession of the issuing facility, shall not be available to any other person. This code shall be the exclusive means of effecting an identification of service recipients. The key to such a code shall not be available to any data banks in which the information is stored or to any other persons, corporations or agencies, private or governmental. The department shall not release or disseminate to any other person, agency or department of government any information which identifies an individual recipient of services by name, numbers, address, birthdate or other characteristics or combination of characteristics which could lead to the individual's identification, except as otherwise required by law.

§ 1-D. Penalty

Any person willfully violating any provisions of sections 1-B and 1-C shall be guilty of a Class D crime.

Sec. 4. 34 MRSA § 2151, first ¶, as amended by P & SL 1973, c. 53, is repealed and the following enacted in place thereof:

Pineland Center, heretofore established at New Gloucester in the County of Cumberland, shall be maintained for the training, education, treatment and care of persons who are mentally retarded and may be maintained for care and treatment of persons who are below the age of 18 years, except as provided in section 2155, who are mentally ill.

Sec. 5. 34 MRSA § 2152, first ¶, as last amended by P & SL 1973, c. 53, is further amended to read:

The Superintendent of the Pineland Center ~~subject, except in the case of emergency admittance, to the availability of suitable accommodations,~~ shall ~~may~~ receive for observation, diagnosis, training, education, treatment or care any person whose admittance is applied for under any of the following procedures.

Effective July 29, 1976

CHAPTER 719

AN ACT Relating to Community-based Facilities for Children and Adults.

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

Sec. 1. 22 MRSA § 5, as last amended by PL 1975, c. 623, § 25, is repealed.

Sec. 2. 22 MRSA § 5-A, as enacted by PL 1973, c. 164, § 2, and as last amended by PL 1975, c. 623, § 26, is repealed.

Sec. 3. 22 MRSA § 1820-A, 1st sentence, as enacted by PL 1967, c. 334, is amended to read:

The department (~~Health and Welfare~~) and any duly designated officer or employee thereof shall have the right to enter upon and into the premises of any nursing home ~~or boarding home~~ licensed pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules and regulations in force pursuant thereto.

Sec. 4. 22 MRSA § 1824 is enacted to read:

§ 1824. Personal funds of residents