

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

AS PUBLIC LAWS AND CONSTITUTIONAL RESOLUTIONS

at the

THIRD SPECIAL SESSION

September 15, 1988 to September 16, 1988

and the

FOURTH SPECIAL SESSION

November 28, 1988

AND

AS PRIVATE AND SPECIAL LAWS AND RESOLVES

at the

FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

THIRD SPECIAL SESSION

September 15, 1988 to September 16, 1988

and the

FOURTH SPECIAL SESSION

November 28, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1989

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
THIRD SPECIAL SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

ed to the Sire Stakes Fund, provided in section 281. ~~Each licensee shall calculate on an annual basis the difference between the sum paid by him pursuant to this paragraph, as it then existed, for calendar year 1981 and the sum paid by him pursuant to this paragraph for calendar year 1987. One-half of this difference shall be used for the purpose of supplementing purse money. A sum equal to 1.550% of the total contributions on exotic wagers and .185% of the total contributions on regular wagers on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter shall be retained by the licensee and added to purse money.~~

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective September 23, 1988.

CHAPTER 887

S.P. 1028 — L.D. 2685

AN ACT to Establish the Maine Commission on Mental Health.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Augusta Mental Health Institute has recently lost its license to receive Medicare reimbursement from the Federal Government; and

Whereas, the Joint Select Committee to Study Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute has identified substantial deficits at both of these state facilities; and

Whereas, the Maine State Employees Association and the American Federation of State, County and Municipal Employees have recently filed a grievance against the Augusta Mental Health Institute for failure to provide safe working conditions; and

Whereas, in order for the State to take immediate action to correct these problems, work must begin as soon as possible following the adjournment of the Third Special Session of the 113th Legislature; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 3 MRSA §507, sub-§4, ¶B, as repealed and replaced by PL 1981, c. 698, § 3, is amended to read:

B. Unless continued or modified by law, the following Group B-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1983. The Maine Health Facilities Authority and the Maine State Housing Authority shall not terminate, but shall be reviewed by the Legislature no later than June 30, 1987:

- (1) Board of Chiropractic Examination and Registration;
- (2) Board of Dental Examiners;
- (3) State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals;
- (4) Board of Registration in Medicine;
- (5) State Board of Nursing;
- (6) State Board of Optometry;
- (7) Board of Osteopathic Examination and Registration;
- (8) Board of Commissioners of the Profession of Pharmacy;
- (9) Examiners of Podiatrists;
- (10) Maine Health Facilities Cost Review Board;
- (11) Maine Medical Laboratory Commission;
- (12) State Planning and Advisory Council on Developmental Disabilities;
- (13) Maine Committee on Problems of the Mentally Retarded;
- (14) Governor's Committee on Employment of the Handicapped;
- (15) Division of Community Services;
- (16) Maine State Housing Authority; and
- (17) Maine Health Facilities Authority; and
- (18) Maine Commission on Mental Health.

Sec. 2. 5 MRSA §12004-I, sub-§§60 and 62, as enacted by PL 1987, c. 786, §5, are repealed.

Sec. 3. 5 MRSA §12004-J, sub-§7 is enacted to read:

<u>7. Mental Health</u>	<u>Maine Commission on Mental Health</u>	<u>Expenses Only</u>	<u>34-B MRSA §§901</u>
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Sec. 4. 34-B MRSA §1209, as amended by PL 1985, c. 712, §1, is repealed.

Sec. 5. 34-B MRSA §1403, as amended by PL 1987, c. 402, Pt. A, §177, is repealed.

Sec. 6. 34-B MRSA §3002, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Appointment. The commissioner shall, with the advice of the ~~Mental Health Advisory Council~~ Maine Commission on Mental Health, appoint and set the salary for the Director of the Bureau of Mental Health.

A. Notwithstanding any other provision of law, the commissioner may delegate any employee of the department to serve, for a period not to exceed 180 days, as the acting director, if the office of the director is vacant.

B. Service as the acting director is considered a temporary additional duty for the person so delegated.

Sec. 7. 34-B MRSA §3006, as repealed and replaced by PL 1987, c. 769, Pt. A, §126, is amended to read:

§3006. State Mental Health Plan

1. Preparation and development of plan. The Bureau of Mental Health, with the advice of the ~~Mental Health Advisory Council~~ Maine Commission on Mental Health, shall:

A. Prepare a plan which describes the system of mental health services in each of the mental health service regions and statewide.

(1) The plan shall include both existing and needed service resources.

(2) The plan shall include an assessment of the roles and responsibilities of mental health agencies, human services agencies, health agencies and involved state departments and shall suggest ways in which these agencies and departments can better cooperate to improve the service system.

(3) The plan shall incorporate the Office of Community Support Systems' report, developed in accordance with section 3004, subsection 3, paragraph C.

(4) The plan shall be prepared biennially and shall be submitted to the joint standing committee of the Legislature having jurisdiction over human resources by December 15th of every even-numbered year. The committee shall review the plan and make recommendations with respect to administrative and funding improvements in the system.

(5) The plan shall be made public within the State in such a manner as to facilitate public involvement;

B. Assure that the development of the plan includes the participation of community mental health service

providers, consumer and family groups and others in annual statewide hearings, as well as informal meetings and work sessions; and

C. Consider community service needs, relate these identified needs to biennial budget requests and incorporate necessary service initiatives into a comprehensive planning document.

Sec. 8. 34-B MRSA c. 3, sub-c. V is enacted to read:

SUBCHAPTER V

MAINE COMMISSION ON MENTAL HEALTH

§3901. Maine Commission on Mental Health; establishment; membership; compensation

1. Establishment. In order to monitor and evaluate the efficacy and timely implementation of community and institutional reform programs designed to improve opportunities for persons with mental illness in the State, to promote and monitor advocacy programs for persons with mental illness and to review and assess the development and implementation of standards of care and treatment for persons with mental illness, there is established an independent commission to be known as the Maine Commission on Mental Health, hereinafter referred to in this chapter as the "commission."

2. Membership. The commission shall consist of 21 members, including 11 appointed by the Governor and 10 jointly appointed by the President of the Senate and the Speaker of the House. In making these appointments to the commission, the Governor, the President of the Senate and the Speaker of the House shall consider and appoint residents of the State who have a knowledge of problems facing persons with mental illness in the State and who provide leadership in programs or activities which are carried out to improve opportunities for persons with mental illness. The Governor shall select a person from among the gubernatorial appointees to serve as chairman. The initial appointments to this commission shall be made within 30 days of the effective date of this subchapter.

3. Terms of office; vacancies. The terms of office of the appointed members shall be 2 years, except for the first appointed members. Of the first appointed members, 5 members appointed by the Governor, 3 members appointed by the President of the Senate and 3 members appointed by the Speaker of the House shall serve for terms of 2 years. The remainder of the members shall be appointed for terms of one year. The term of office of each member shall be designated at the time of appointment.

A. Upon expiration of a member's term, the member shall serve until a successor is qualified and appointed. Any member may be removed for cause which shall include excessive absences from meetings of the commission. Excessive absences shall be defined by the commission.

B. A vacancy on the commission shall be filled for the unexpired term in the same manner in which an appointment is made.

4. Meetings. The commission shall meet at least once a month. Additional meetings may be held as necessary and may be convened at the call of the chairman or any 2 members. Meetings shall be announced in advance and open to the public as required by Title 1, chapter 13, subchapter I.

5. Quorum. Nine members of the commission shall constitute a quorum. No action may be taken by the commission except by affirmative vote of a majority of those present and voting.

6. Compensation. Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the work of the commission as provided in Title 5, chapter 379.

§3902. Powers and duties.

The commission has the powers and duties to advise and consult with the Governor and the Legislature about improving care, treatment and programming for persons with mental illness in the State. The commission has the following powers and duties:

1. Assistance to persons with mental illness. To recommend a program of citizen advocates who are available, upon the request of a person with mental illness or that person's legal guardian, to assist in the treatment and program planning process with the patient, both in the institutes and in the community, and to otherwise act in a supportive role for individual persons with mental illness and to monitor the effectiveness of all advocacy programs for persons with mental illness;

2. Standards. To work in a collaborative fashion with the department to review and comment on the development and implementation of standards of care and treatment of persons with mental illness;

3. Reform programs. To monitor and evaluate the efficiency and timeliness of community and institutional reform programs designed to improve opportunities for persons with mental illness;

4. Recommendations concerning state mental health institutes. To make recommendations to the commission on the management of the state mental health institutes;

5. Subcommittee on state mental health institutes. To create a subcommittee from the membership of the commission exclusively to monitor and evaluate the state mental health institutes. The subcommittee shall monitor and evaluate the development and implementation of standards of care and treatment at the state mental health institutes and inspect the institutes;

6. Appoint an executive director and secretary and request staff assistance from the department. To appoint a full-time executive director who shall serve at the pleasure of the commission and who shall not be subject to the civil service laws. The executive director is entitled to compensation in an amount to be determined by the commission within the same pay range authorized for the Executive Director of the Human Services Council. The executive director shall perform those duties as assigned by the commission. The commission may employ a secretary as it deems necessary. The commission may request department staff, as needed, to assist the commission in carrying out its functions and duties. The executive director may make recommendations to the commission;

7. Meetings. To conduct public hearings, conferences, workshops and other such meetings to obtain information about, discuss and publicize the needs of and solutions to problems of persons with mental illness in Maine;

8. Advise. To act in an advisory capacity to the commissioner in the development of the state mental health plan and in the appointment of a Director of the Bureau of Mental Health. The commission shall act in an advisory capacity to the commissioner, the Governor and the Legislature on mental health matters; and

9. State mental health plan. To participate in the development of the state mental health plan required by section 3006.

§3903. Reports.

By February 1, 1990 and each year thereafter, the commission shall present a report to the Legislature and the commissioner assessing the State's implementation of and compliance with the community and institutional standards and evaluating the state mental health institutes. The report shall set out the standards, the degree of compliance with the standards, identify any areas of noncompliance and suggest a plan of correction. The commission shall report to the Legislature on an interim basis, upon request.

Reports presented pursuant to this section shall be submitted to the joint standing committee of the Legislature having jurisdiction over human resources and to the commissioner. Copies of the report shall be sent to the Office of Advocacy, Department of Human Services, Division of Adult Services, and the state agency designated to carry out the purposes of the United States Protection and Advocacy for Mentally Ill Individuals Act. Copies of the report shall be made available to interested persons upon request.

Sec. 9. Mental Health Rights Advisory Board report. The Mental Health Rights Advisory Board established in the Maine Revised Statutes, Title 34-B, section 1209-A, shall report to the Joint Standing Committee on Human Resources by February 15, 1989 on any fac-

tors which impede the board's capacity to protect patients' rights. The staff of the Maine Commission on Mental Health, established in the Maine Revised Statutes, Title 34-B, section 3901, shall assist the board in making this report.

Sec. 10. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1988-89
<u>MAINE COMMISSION ON MENTAL HEALTH</u>	
Positions	(2)
Personal Services	\$44,556
All Other	22,000
Capital Expenditures	5,000
Total	\$71,556

Provides funds for an Executive Director and a secretary, office expenses and related costs of operating the Commission.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that sections 2, 4 and 5 shall take effect July 1, 1989.

Effective September 23, 1988, unless otherwise indicated.

CHAPTER 888

H.P. 1996 — L.D. 2698

AN ACT to Amend the Maine Managed Care Insurance Plan Demonstration for Uninsured Individuals.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation is immediately necessary to ensure that low-income workers employed by small businesses may obtain adequate health insurance; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

22 MRSA §3188, sub-§2, as enacted by PL 1987, c. 349, Pt. H, §14, is repealed and the following enacted in its place:

2. Targeted enrollment. The department shall target enrollment in this plan to low-income, non-Medicaid eligible individuals employed in groups of less than 15

and the self-employed. Individual or nongroup policies will not be offered through this program. Enrollment in this plan shall not be offered to any group where there has been a health plan offered at any time within the past 12 months or to any self-employed individual who has been covered by health benefits coverage at any time within the past 12 months; except that groups and individuals who were covered through the Medicaid program or who had health benefits and lost that coverage involuntarily and who otherwise would be eligible for the Maine Managed Care Insurance Plan Demonstration are eligible for enrollment.

The intent of this demonstration is to provide access to health benefits to those for whom financial barriers preclude the purchase of the coverage. Eligibility criteria for the Maine Managed Care Insurance Plan Demonstration shall be developed by the department based upon the advice of The Robert Wood Johnson Foundation's grant advisory committee.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective September 23, 1988.

CHAPTER 889

H.P. 1998 — L.D. 2701

AN ACT Concerning State Contribution to Water Systems.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Environmental Protection is preparing to turn over a water system to the Town of Friendship to remediate contaminated wells; and

Whereas, there is disagreement over state oversight of the funds received under state grants; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

35-A MRSA §6108 is enacted to read:

§6108. State contributions

The management and allocation by a consumer-owned water utility of a state contribution of funds made prior to January 1, 1989, under Title 38, section 568, and its income, shall not be subject to investigation or review