

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4

J.S. McCarthy Company
Augusta, Maine
1995

B. Bonds issued under this section and paragraph do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Notwithstanding this paragraph, the authority may issue bonds in an original principal amount not to exceed ~~\$20,000,000~~ \$100,000,000 to which the authority may designate section 13080-N to apply. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

Sec. 8. 5 MRSA §13080-N, sub-§6, as enacted by PL 1993, c. 729, §10, is amended to read:

6. Securities outstanding. The authority may not have at any one time outstanding bonds, which, in the trust agreement or other document, subsection 5 is stated to apply to, in principal amount exceeding an amount equal to ~~\$20,000,000~~ \$100,000,000. The amount of bonds issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of bonds of the authority that may at any time be outstanding for any purpose, the amounts of outstanding bonds that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

See title page for effective date.

CHAPTER 496

H.P. 1084 - L.D. 1526

An Act to Allow Involuntary Commitments at Hospitals under Contract with the Department of Mental Health and Mental Retardation

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

Sec. 1. 34-B MRSA §3801, sub-§1-A is enacted to read:

1-A. Designated nonstate mental health institution. "Designated nonstate mental health institution" means a nonstate mental health institution that is under contract with the department for receipt by the hospital of involuntary patients.

Sec. 2. 34-B MRSA §3863, sub-§5, as enacted by PL 1983, c. 459, §7, is amended to read:

5. Continuation of hospitalization. If the chief administrative officer of the hospital recommends further hospitalization of the person, ~~he~~ the chief administrative officer shall determine the suitability of admission, care and treatment of the patient as an informally admitted patient, as described in section 3831.

A. If the chief administrative officer of the hospital determines that admission of the person as an informally admitted patient is suitable, ~~he~~ the chief administrative officer shall admit the person on this basis, if the person so desires.

B. If the chief administrative officer of the hospital determines that admission of the person as an informally admitted patient is not suitable, or if the person declines admission as an informally admitted patient, the chief administrative officer of the hospital may ~~he~~ seek involuntary commitment of the patient by filing an application for the issuance of an order for hospitalization under section 3864, except that if the hospital is a designated nonstate mental health institution and if the patient was admitted under the contract between the hospital and the department for receipt by the hospital of involuntary patients, then the chief administrative officer may seek involuntary commitment only by requesting the commissioner to file an application for the issuance of an order for hospitalization under section 3864.

(1) The application ~~shall~~ must be made to the District Court having territorial jurisdiction over the hospital to which the person was admitted on an emergency basis.

(2) The application ~~shall~~ must be filed within 5 days from the admission of the patient under this section, excluding the day of admission and any Saturday, Sunday or legal holiday.

C. If neither readmission nor application to the District Court is effected under this subsection, the chief administrative officer of the hospital to which the person was admitted on an emergency basis shall discharge the person ~~forthwith~~ immediately.

Sec. 3. 34-B MRSA §3864, sub-§2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Detention pending judicial determination. Notwithstanding any other provisions of this subchapter, ~~no~~ a person, with respect to whom ~~proceedings for judicial hospitalization have been commenced an~~

application for the issuance of an order for hospitalization has been filed, may not be released or discharged during the pendency of the proceedings, unless:

A. The District Court orders release or discharge upon the ~~application~~ request of the patient, ~~his or the patient's~~ guardian, parent, spouse or next of kin;

B. The District Court orders release or discharge upon the report of the ~~chief administrative officer of the hospital~~ applicant that the person may be discharged with safety; ~~or~~

C. A court orders release or discharge upon a writ of habeas corpus under section 3804; ~~or~~

D. Upon request of the commissioner, the District Court orders the transfer of a patient in need of more specialized treatment to another hospital. In the event of a transfer, the court shall transfer its file to the District Court having territorial jurisdiction over the receiving hospital.

Sec. 4. 34-B MRSA §3864, sub-§5, ¶B, as enacted by PL 1983, c. 459, §7, is amended to read:

B. The hearing ~~shall~~ must be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have harmful effect on the mental health of the person. If the setting is outside the hospital to which the patient is currently admitted, the hospital shall bear the responsibility and expense of transporting the patient to and from the hearing. If the patient is to be admitted to a hospital following the hearing, then the responsible hospital shall transport the patient to the admitting hospital. If the patient is to be released following the hearing, then the responsible hospital shall return the patient to the hospital or, at the patient's request, return the patient to the patient's place of residence.

Sec. 5. 34-B MRSA §3864, sub-§6, ¶A, as enacted by PL 1983, c. 459, §7, is amended to read:

A. The District Court shall so state in the record, if it finds upon completion of the hearing and consideration of the record:

(1) Clear and convincing evidence that the person is mentally ill and that ~~his~~ the person's recent actions and behavior demonstrate that ~~his~~ the person's illness poses a likelihood of serious harm;

(2) That inpatient hospitalization is the best available means for treatment of the patient; and

(3) That it is satisfied with the individual treatment plan offered by the hospital to which the applicant seeks the patient's involuntary commitment.

Sec. 6. 34-B MRSA §3864, sub-§§7 and 8, as enacted by PL 1983, c. 459, §7, are amended to read:

7. Commitment. Upon making the findings described in subsection 6, the court may order commitment to a ~~mental~~ hospital for a period not to exceed 4 months in the first instance and not to exceed one year after the first and all subsequent hearings.

A. The court may issue an order of commitment immediately after the completion of the hearing, or it may take the matter under advisement and issue an order within 24 hours of the hearing.

B. If the court does not issue an order of commitment within 24 hours of the completion of the hearing, it shall dismiss the application and order the patient discharged ~~forthwith~~ immediately.

8. Continued involuntary hospitalization. If the chief administrative officer of the hospital ~~determines to which a person has been committed involuntarily by the District Court recommends~~ that continued involuntary hospitalization is necessary for a ~~that person who has been ordered by the District Court to be committed, he~~ the chief administrative officer shall, notify the commissioner. The commissioner may then, not later than 30 days prior to the expiration of a period of commitment ordered by the court, make application in accordance with this section to the District Court which that has territorial jurisdiction over the hospital designated for treatment in the application by the commissioner for a hearing to be held under this section.

Sec. 7. 34-B MRSA §3871, sub-§4, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. 8. 34-B MRSA §3871, sub-§5, as enacted by PL 1983, c. 459, §7, is amended to read:

5. Notice. Notice of discharge is governed as follows.

A. When a patient is discharged under this section, the chief administrative officer of the ~~state mental health institute~~ hospital shall immediately make a good faith attempt to notify the following people, by telephone, personal communication or letter, that the discharge has taken or will take place:

(1) The parent or guardian of a minor patient;

(2) The guardian of an adult incompetent patient, if any is known; or

(3) The spouse or adult next of kin of an adult competent patient, if any is known, unless the patient requests in writing that the notice not be given or unless the patient was transferred from or will be returned to a state correctional facility.

B. The ~~state mental health institute~~ hospital is not liable when good faith attempts to notify parents, spouse or guardian have failed.

See title page for effective date.

CHAPTER 497

H.P. 1110 - L.D. 1558

An Act to Deregulate the Costs and Revenues Associated with Acute Care Provided to Involuntarily Committed Patients within the Hospital Care Finance System

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

Sec. 1. 22 MRSA §382, sub-§7-A is enacted to read:

7-A. Involuntarily committed patient. "Involuntarily committed patient" means a patient who is admitted for acute care to a hospital that is not a state mental health institute and whose care is authorized by the Department of Mental Health and Mental Retardation under a contract to provide acute care services to class members in Bates v. Glover, No. CV-89-88 (Maine Superior Court, Kennebec County). A patient remains classified as an involuntarily committed patient only during those periods of the hospital stay when the patient's care is authorized by the Department of Mental Health and Mental Retardation.

Sec. 2. 22 MRSA §395, sub-§4, as enacted by PL 1983, c. 579, §10, is amended to read:

4. Medical record abstract data. In addition to the information required to be filed under section 394 and pursuant to rules adopted by the commission for form, medium, content and time of filing, each hospital shall file with the commission such medical record abstract data as the commission may prescribe, including data relating to involuntarily committed patients whose care is authorized by the Department of Mental Health and Mental Retardation.

Sec. 3. 22 MRSA §396, sub-§2, as repealed and replaced by PL 1989, c. 588, Pt. A, §9, is amended to read:

2. Criteria. Subject to more specific provisions contained in this subchapter, the revenue limits and apportionment methods established by the commission ~~shall~~ **must** ensure that:

A. The financial requirements of a hospital are reasonably related to its total services;

B. A hospital's patient service revenues are reasonably related to its financial requirements; ~~and~~

C. Rates are set equitably among all payors, purchasers or classes of purchasers of health care services without undue discrimination or preference;

D. The costs of providing acute care to involuntarily committed patients are not included in the financial requirements of a hospital, nor are the revenues received from providing the care considered in calculating a hospital's patient service revenue limits. In addition, the services provided to involuntarily committed patients may not be considered in determining the volume of cases or discharges for purposes of adjusting financial requirements; and

E. Rates charged to patients who receive services similar to those provided to involuntarily committed patients but whose care is not authorized by the Department of Mental Health and Mental Retardation are comparable to rates charged for authorized care provided to involuntarily committed patients.

Sec. 4. 22 MRSA §396-D, sub-§4, ¶A, as enacted by PL 1983, c. 579, §10, is amended to read:

A. In determining payment year financial requirements, the commission shall consider the reasonable expected impact on the hospital's financial requirements of changes in the volume of services required to be provided by the hospital. During any time that payments to hospitals are made under the federal disproportionate share to hospitals formula, the commission shall exclude the cost of services provided to involuntarily committed patients.

Sec. 5. 34-B MRSA §1207, sub-§1, ¶B-2 is enacted to read:

B-2. Information consisting of data relating to involuntarily committed patients whose care is authorized by the department must be disclosed by admitting hospitals to the Maine Health Care Finance Commission for the purpose of comply-