

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

writing that the commissioner hold a public hearing, a hearing must be held as follows.

(a) Notwithstanding any other provision of law, the Secretary of State shall publish a notice of the hearing in a newspaper of general circulation in the State. The published notice must:

(i) State the time and place of any scheduled hearing or state the manner in which a hearing may be requested;

(ii) State the manner and time within which data, views or arguments may be submitted to the department for consideration;

(iii) State the name, address and phone number of the department staff person responsible for providing additional information regarding the hearing; and

(iv) Include a brief and general summary of the purpose of the hearing.

The department shall reimburse the Secretary of State for any costs incurred under this division.

(b) The department shall post a notice of the hearing on its publicly accessible website 17 to 24 days prior to the hearing.

(c) The hearing is not an adjudicatory hearing and is not subject to the requirements of Title 5, chapter 375, subchapter 4.

(d) The commissioner or a designee who has decision-making responsibility over the subject matter to be discussed at the hearing shall hold and conduct the hearing.

(e) Written statements and arguments concerning the application must be filed within 10 days after the close of the hearing unless a longer period is established by the commissioner.

(f) All witnesses must be sworn in.

(g) All public comments must be transcribed and included as part of the record.

(2) The commissioner shall hold an adjudicatory hearing under Title 5, chapter 375, subchapter 4 if 2 or more interested parties who qualify as intervenors request an adjudicatory hearing in writing stating an intent to offer a

witness or cross-examine a witness, unless the commissioner determines and records in writing why an adjudicatory hearing will not assist the commissioner in understanding information relevant to the application.

(3) The commissioner shall accept public comment on an application during the course of processing the application. The commissioner shall set a deadline for receiving public comments.

(4) The commissioner may not issue the final decision until 10 business days after the close of the public comment period. The commissioner's final decision must include responses to the public comments.

See title page for effective date.

CHAPTER 326

H.P. 353 - L.D. 534

An Act To Improve Care Coordination for Persons with Mental Illness

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

Sec. 1. 22 MRSA §1711-C, sub-§6, ¶A, as amended by PL 2011, c. 347, §6, is further amended to read:

A. To another health care practitioner or facility for diagnosis, treatment or care of individuals or to complete the responsibilities of a health care practitioner or facility that provided diagnosis, treatment or care of individuals, as provided in this paragraph.

(1) For a disclosure within the office, practice or organizational affiliate of the health care practitioner or facility, no authorization is required.

(2) For a disclosure outside of the office, practice or organizational affiliate of the health care practitioner or facility, authorization is not required, except that in nonemergency circumstances authorization is required for health care information derived from mental health services provided by:

(a) A clinical nurse specialist licensed under the provisions of Title 32, chapter 31;

(b) A psychologist licensed under the provisions of Title 32, chapter 56;

(c) A social worker licensed under the provisions of Title 32, chapter 83;

(d) A counseling professional licensed under the provisions of Title 32, chapter 119; or

(e) A physician specializing in psychiatry licensed under the provisions of Title 32, chapter 36 or 48.

This subparagraph does not prohibit the disclosure of health care information between a licensed pharmacist and a health care practitioner or facility providing mental health services for the purpose of dispensing medication to an individual.

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this section to a state-designated statewide health information exchange that satisfies the requirement in subsection 18, paragraph C of providing a general opt-out provision to an individual at all times and that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow the state-designated statewide health information exchange to disclose that individual's health care information covered under Title 34-B, section 1207.

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this paragraph to a health care practitioner or health care facility, or to a payor or person engaged in payment for health care, for purposes of care management or coordination of care. Disclosure of psychotherapy notes is governed by 45 Code of Federal Regulations, Section 164.508(a)(2). A person who has made a disclosure under this subparagraph shall make a reasonable effort to notify the individual or the authorized representative of the individual of the disclosure.

Sec. 2. 34-B MRSA §1207, sub-§9 is enacted to read:

9. Disclosure for care management or coordination of care. Notwithstanding any provision of this section to the contrary, a health care practitioner may disclose without authorization health information for the purposes of care management or coordination of care pertaining to a client as provided in this subsection.

A. Disclosure is permitted to a health care practitioner or health care facility as defined in Title 22, section 1711-C, subsection 1.

B. Disclosure is permitted to a payor or person engaged in payment for health care for the purpose of care management or coordination of care.

C. Disclosure of psychotherapy notes is governed by 45 Code of Federal Regulations, Section 164.508(a)(2).

D. A person who has made a disclosure under this subsection shall make a reasonable effort to notify the individual or the authorized representative of the individual of the disclosure.

See title page for effective date.

CHAPTER 327

H.P. 367 - L.D. 548

**An Act To Amend the Laws
Governing the Award of
Spousal Support in Divorce
Actions**

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

Sec. 1. 19-A MRSA §951-A, sub-§4, as enacted by PL 1999, c. 634, §3, is amended to read:

4. Modification. An award of spousal support issued before October 1, 2013 is subject to modification when it appears that justice requires unless and to the extent the order awarding or modifying spousal support expressly states that the award, in whole or in part, is not subject to future modification. An award of spousal support issued on or after October 1, 2013 is subject to modification when it appears that justice requires.

Sec. 2. 19-A MRSA §951-A, sub-§12 is enacted to read:

12. Cessation upon cohabitation. When it appears that justice requires, an order awarding spousal support is subject to modification to terminate spousal support when it can be shown that the payee and another person have entered into a mutually supportive relationship that is the functional equivalent of marriage that has existed for at least 12 months of a period of 18 consecutive months.

See title page for effective date.

CHAPTER 328

H.P. 497 - L.D. 724

**An Act To Require Firearms
Used in the Commission of
Certain Acts To Be Civilly
Forfeited to the State and
Destroyed**

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