Department of Health and Human Services
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John E. Baldacci, Governor
Brenda M. Harvey, Commissioner

Department of Health and Human Services
Commissioner's Office
221 State Street
# 11 State House Station
Augusta, Maine 04333-0011
Tel: (207) 287-3707; Fax (207) 287-3005
TTY: 1-800-606-0215

# REPORT TO THE JOINT STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES

# ON THE

# THE PROGRESSIVE TREATMENT PROGRAM

## January, 2010

**Prepared and Submitted by:**

**Department of Health and Human Services**

## Introduction

The Department of Health and Human Services (DHHS) is submitting this report to the Joint Standing Committee on Health and Human Services documenting the implementation and progress of the legislatively mandated Progressive Treatment Program (PTP). The Progressive Treatment Program (PTP) was made possible through the passage of Chapter 519, BBBB 1-19, during the 2nd Session of the 122nd Legislature. A statutory change was made to the PTP during the first session of the 124th Legislature which reduced the age of eligibility from 21 to 18 and provided for an extension of the period of participation from 6 months to a possible 12 months. The relevant statutes are included in Appendix 1.

The development of the PTP came about through the work of many stakeholders over a period of many months. Numerous concerns, issues, and strong feelings arose during this period, as stakeholders struggled with the complex issues of mandated community treatment The PTP program design was reached through consensus of this stakeholder group.

The legislation establishing the Progressive Treatment Program authorizes the two public hospitals, Dorothea Dix Psychiatric Center (DDPC) in Bangor and Riverview Psychiatric Center (RPC) in Augusta, to apply to district court to request a judge to order a commitment of six months of court ordered community-based treatment using the Assertive Community Treatment (ACT) program to provide the service. Moreover, the legislation authorized the creation of ACT programs to provide the services, one to be associated with RPC organized through reallocation of State positions, and the other to be associated with DDPC.

The PTP is now fully operational and the related ACT services exist in both areas; one under the operation of RPC and the other operated by Community Health and Counseling Services (CHCS) in Bangor. The RPC ACT Team accepts both PTP clients and RPC forensic clients. The ACT Team at CHCS accepts PTP clients as well as ACT clients from DDPC and the community.

This report describes activities that have taken place or are ongoing to carry out the mandates of the legislation, including the following:

1. Requirements of the Statute
2. Development of Progressive Treatment Program Guidelines
3. Education and Training
4. Consumer Eligibility
5. Riverview Psychiatric Center – Riverview ACT Team
6. Dorothea Dix Psychiatric Center – Community Health and Counseling Services ACT Team
7. No Reject Provisions
8. Evaluation
9. Next Steps

## Requirements of the Statute

The enabling legislation contained a number of requirements to be undertaken by DHHS. These included:

- The development of two PTP-ACT teams to serve eligible individuals from each of the two public psychiatric hospitals;
- An analysis of the current costs to provide service to individuals eligible to participate in the PTP program;
- Development of a funding proposal to sustain the PTP program with existing resources;
- The development of education and training materials with input from a variety of appropriate groups;
- Amendments to MaineCare rules to prohibit any provider of ACT from rejecting any person participating in the PTP.

Each of these requirements is addressed in this report. DHHS has closely monitored the implementation of PTP and has tracked the number of individuals served by the program and the number who have completed the program. An evaluation of cost effectiveness would yield little valid information because of the small number of individuals served by the two PTP - ACT teams to date. The small number of participants is attributed to the requirement in the statute which narrowly defines those who are eligible to participate in the program.

## Development of Progressive Treatment Program Guidelines

The Office of Adult Mental Health Services (OAMHS) recognized that a key element of implementing the PTP within the two public hospitals would be the joint development of the guidelines which would be followed by the two hospitals. OAMHS convened a work group of representatives from RPC and DDPC, OAMHS, and an Assistant Attorney General. The group included Superintendents, Medical Directors, the RPC Deputy Superintendent and the Riverview ACT Team Program Director. The guidelines were completed in draft form in late October, 2007 and were approved for use by early November, 2007 with the initiation of the Riverview ACT Team. In addition to the guidelines, the associated forms for the commitment hearings and other necessary documents were also developed. The guidelines are included in Appendix 2.

## Education and Training

OAMHS, through the Office of Consumer Affairs, brought together a Peer Advisory Group to assist in the preparation of a program description for the PTP to be used for educational purposes. It is geared to anyone who is interested in learning more about the PTP, how it works and what is intended to accomplish. The Program Description developed by this group is attached (Appendix 3).

In addition to the development of the program description there have been several other initial training and educational activities which included:

- On October 2, 2006, NAMI-Maine sponsored a panel open to the public to provide information about community commitment and the progress in Maine toward implementation of the Progressive Treatment Program. The panel was held at the University of Maine in Augusta, and included Mary T. Znadowicz J.D., Executive

Director of the Treatment Advocacy Center in Arlington, VA and Donald Chamberlain, Director, Community Systems, OAMHS, DHHS.

- Guidelines were developed for use by RPC and DDPC and forms were created by the Assistant Attorney General (AAG) who works with DHHS and with the District Court for commitment hearings. This AAG worked with court personnel to introduce them to the role of the court in the PTP, and to acquaint them with the new forms. The AAG has also offered court personnel the opportunity to participate in using in vivo cases for training as the law is implemented for the first time.
- The Assistant Attorney General assigned to OAMHS arranged training sessions for RPC and DDPC medical staff regarding PTP and the new standards for commitment and rehospitalizaiton that had been created.

**Consumer Eligibility**

The legislation allowed for up to 25 persons to be served by each of the ACT teams but the number of persons who were eligible and agreed to the PTP have been substantially less. Moreover, the original projection was done prior to the finalization of the legislation which defined more specifically and narrowly who would be eligible. To be eligible for District Court commitment to the PTP and individual must:

(1) Be 21 years of age or older originally; and 18 as of the fall of 2009;
(2) Have a clinical diagnosis of a Severe and Persistent Mental Illness;
(3) Have an order of involuntary commitment to Dorothea Dix Psychiatric Center or Riverview Psychiatric Center at the time of tiling filing of the application for PTP; and
(4) Have a clinical determination that PTP is appropriate in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to live safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm. This determination must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and inability to make informed decisions regarding treatment;
(5) Be able to live within a 25 mile radius of the referring state public psychiatric hospital without undue disruption of the person's natural support system for the duration of the PTP.

**Riverview Psychiatric Center – Riverview ACT Team**

In November, 2006 the Riverview ACT team was licensed and ready to accept PTP referrals from RPC.

Beginning with the effective date the legislation, July 1, 2006, the Department reassigned personnel from within RPC and the DHHS Office of Adult Mental Health Services Region II Office to staff the new Riverview ACT Team which would operate as a community based outpatient program of RPC. These changes were made in accordance with Chapter 519, BBBB-19. The ACT Team is designed, as its mission statement reads, to provide "a broad array of community-based, individualized rehabilitative services delivered by a multi-disciplinary team of medical, mental health, administrative and social and human services professionals."

The Riverview ACT Team was created to serve two populations:

(1) RCP civil patients who are committed to the PTP
(2) RCP forensic patients on Non Criminally Responsible (NCR) status who are returning to the community

Staffing

The Riverview ACT Team serving RPC consists of State employees and contract employees and is overseen by RPC. This Team not only serves PTP clients as noted above but also forensic clients who are in the custody of the DHHS Commissioner and have been discharged from RPC. The current total staffing is 9 direct service full time equivalents (FTEs) and consists of the following positions:

0.5 Psychiatrist
1.0 Nurse Practitioner
1.0 Program Director
1.0 Team Leader
1.0 Substance Abuse Specialist
1.0 Vocational/Employment Specialist
1.0 Case Manager
1.0 Peer Support Specialist
1.0 Psychologist
0.5 Program Specialist

Of the above positions, the OAMHS Region 2 office contributed 2 FTEs – 1 FTE Consent Decree Coordinator who became the Team Leader of the ACT Team and 1 FTE ICM who is the case manager on the Team.

Rate

Services for all ACT teams are reimbursed at a monthly bundled rate per consumer. The Riverview ACT Team rate is $1,360.03 per month.

Consumers

While the ACT Team was fully operational in November, 2006 to take on PTP consumers the first referral from RPC did not come until January, 2007. At the District Court hearing, the District Court Judge allowed the case to be dismissed. The first case was then admitted to the ACT Team on March 28, 2007. During this time period the team admitted forensic cases. This delay was the result of a lack of initial consumers who met the eligibility criteria and, if they met the criteria, were willing to accept PTP as an alternative to continued hospitalization.

For the three years of operation from January 2007 through December, 2009, there have been:

- Nineteen admissions involving fifteen individuals; one individual was admitted three times and two were admitted twice;
- Of the nineteen admissions, seven completed the PTP.

**Dorothea Dix Psychiatric Center- Community Health and Counseling Services ACT Team**

The legislature appropriated $115,237 for MaineCare seed in FY'07 for ACT services for the Progressive Treatment Program associated with Dorothea Dix Psychiatric Center (DDPC). The Office of Adult Mental Health Services (OAMHS) initiated a Request for Proposals (RFP) process to seek a provider of these services. However, before the RFP process was completed, DHHS decided to expedite the process and seek a provider who was licensed and qualified to provide ACT services in the DDPC services area. CHCS was the existing provider of ACT services in the area and their contract was amended to provide the PTP and a revised rate was established for the CHCS ACT Team in May, 2007. As the contract amendment was being negotiated a critical issue became the number of consumers who would be added to the existing ACT Team and what additional staffing would be needed to accommodate these consumers. After a thorough review of existing consumers at Dorothea Dix Psychiatric Center and projections of new consumers, it was decided to increase staffing to accommodate 5 PTP consumers. Should the number of consumers increase, the ACT Team staffing could be further increased to accommodate additional consumers. Since CHCS is only reimbursed based upon consumers actually receiving services, it was not financially feasible for CHCS to staff for more consumers that would likely be referred.

Staffing

CHCS overall direct service ACT team staffing is 11.55 FTEs. The overall specific positions are as follows:

0.1 Psychiatrist
0.45 Nurse Practitioner
1.0 Team Leader
1.0 Psychiatrist Nurse
6.0 Case Managers
1.0 Vocational/Employment Specialist
1.0 Substance Abuse Specialist
1.0 Peer Specialists

Additionally, CHCS uses hourly staff for medication management administration specifically for the new PTP consumers.

Rate

Services for all ACT Teams are reimbursed at a monthly bundled rate per consumer. The CHCS amended ACT Team rate has been set at $1654.32 per month.

Consumers

The first consumer entered the PTP program from Dorothea Dix Psychiatric Center in August, 2007.

As of December, 2009 there have been:

- Seventeen admissions of sixteen unique consumers; two consumers had two admissions;
- Nine persons completed the PTP.

**No Reject Provisions**

Section BBBB-17 of Chapter 519 directed DHHS to amend its MaineCare rules to prohibit any provider of ACT from rejecting any person participating in the PTP. After a review of the relevant section of the MaineCare rules, DHHS determined a rule change to be unnecessary. This is true because the Riverview ACT is a DHHS program and under the auspices of OAMHS and the requirements of the CHCS program are more appropriately covered by their contract.

**Cost**

OAMHS has not mounted a study of the costs of this program given the low number of participants completing the program. We do know that the six month cost for the ACT team service is $8,160 at RPC and is $9,186 at DDPC, plus the housing costs for each participant. Participants would typically be in some type of supported housing (BRAP $387 per month) to a PNMI at ($7800 per month). Additionally, of the sixteen people completing the PTP, seven people had readmissions to either RPC or DDPC during this time. The daily hospital rate is $870 so the days in the hospital would also need to be part of the cost calculation. A rough picture of a six month program might range from a high of $61,050 when the housing is in a PNMI and there is a hospital readmission to a low of $12,246 when there is BRAP housing and no readmissions. The two following examples illustrate these costs:

Scenario one….RPC PTP…….$ 8,160
PNMI costs…….$46,800
Seven days of hospitalization…….$ 6,090

Total $61,050 per person

Scenario two….DDPC PTP……$ 9,924
BRAP/housing…… $ 2,322
No hospitalization…….$ 0

Total $12,246 per person

There are also court and assessment costs that should be considered as part of the cost calculations.

**Evaluation**

The program at RPC has been in operation for three years and has had 19 admissions (15 unduplicated) and 7 completions during that three year time span. The program at DDPC has been in operation for two years and five months had has had 17 admissions (16 unduplicated) and 9 completions. OAMHS has not mounted a full evaluation of either the efficacy or the cost of the program given the low numbers for completion and the costs associated with a full evaluation. Data is being kept on each of the participants so OAMHS kept open the possibility of a retrospective study.

As of today, we do not know if the PTP is an effective option for people with severe and persistent mental illness at risk of relapse or deterioration absent mandated compliance with prescribed treatment. The numbers who have participated have been small, thirty individuals

and sixteen completions over the course of three years, and the national research on the efficacy of this option is inconclusive.

The most current national research has been done on the Assisted Outpatient Treatment (AOT) Program in New York State. The intent of AOT was to provide the resources and oversight necessary for a viable, less restrictive alternative to involuntary hospitalization. The Assisted Outpatient Treatment Program is an outpatient commitment program with three service options: enhanced voluntary services, ACT, and intensive case management. One or all three of these options may be provided at any one time to a participant in AOT. New York's AOT program was accompanied by a significant infusion of new service dollars and more comprehensive implementation, infrastructure, and oversight of the AOT process than any other comparable program in the United States according to the evaluation published in June 2009. John Monahan of the MacArthur Foundation Research Network on Mandated Community Treatment and the University of Virginia School of Law summarized the findings of this large scale effort:

- During the first six months on Assisted Outpatient Treatment (AOT), service engagement was comparable to service engagement of voluntary patients not on AOT;
- After 12 months or more, when combined with intensive services, AOT increases service engagement compared to voluntary treatment;
- During AOT, the consumer is more likely to consistently receive psychotropic medications and there are subjective improvements in many areas of functioning;
- Six months after discharge from AOT, decreased rates of hospitalization and improved receipt of psychotropic medications are sustained only if recipients receive intensive services;
- Twelve months or longer after discharge from AOT, decreased rates of hospitalization and improved receipt of medications are sustained whether or not intensive services are continued.

The summary of the New York evaluation states:

> We find that New York State's AOT Program improves a range of important outcomes for its recipients, apparently without feared negative consequences to recipients. The increased services under AOT clearly improve recipient outcomes; however, the AOT court order, itself, and its monitoring do appear to offer additional benefits improving outcomes. It is also important to recognize that the AOT order exerts a critical effect on service providers stimulating their efforts to prioritize care for AOT recipients.

**Next Steps**

The legislation for the PTP sunsets in July 2010. It is premature to end this program in July given the effort that has gone into it thus far and the possibility of improved outcomes that it may offer. OAMHS proposes:

- To consider the use of the twelve month commitment rather than the more frequently used six month term to see if there is an improvement in longer term gains;
- To do an anecdotal study of the persons who have completed the PTP with information on pre and post hospitalization and service needs at six and twelve months post discharge.
- To coordinate ongoing training and discussion with the two PTP teams to implement ongoing data collection for participants, to discuss the latest research, to understand the content of the PTP statutes and the role of the PTPs, and to provide case consultation.

# PUBLIC LAWS
# Second Regular Session of the 122nd

## CHAPTER 519, PART BBBB

**Sec. BBBB-1. 34-B MRSA §3801, sub-§4, ¶¶B and C,** as enacted by PL 1983, c. 459, §7, are amended to read:

B. A substantial risk of physical harm to other persons as manifested by recent evidence of homicidal or other violent behavior or recent evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them and, after consideration of less restrictive treatment settings and modalities, a determination that community resources for ~~his~~ the person's care and treatment are unavailable; ~~or~~

C. A reasonable certainty that severe physical or mental impairment or injury will result to the person alleged to be mentally ill as manifested by recent evidence of ~~his~~ the person's actions or behavior ~~which demonstrate his~~ that demonstrates the person's inability to avoid or protect ~~himself~~ the person from such impairment or injury, and, after consideration of less restrictive treatment settings and modalities, a determination that suitable community resources for ~~his~~ the person's care are unavailable~~.~~; or

**Sec. BBBB-2. 34-B MRSA §3801, sub-§4, ¶D** is enacted to read:

D. For the purposes of section 3873, subsection 5, in view of the person's treatment history, current behavior and inability to make an informed decision, a reasonable likelihood that deterioration of the person's mental health will occur and that the person will in the foreseeable future pose:

(1) A substantial risk of physical harm to the person as manifested by evidence of recent threats of, or attempts at, suicide or serious bodily harm;

(2) A substantial risk of physical harm to other persons as manifested by recent evidence of homicidal or other violent behavior or recent evidence that others are placed in reasonable fear of violent behavior and serious physical harm to themselves; or

(3) A substantial risk of severe physical or mental impairment or injury to the person as manifested by recent evidence of actions or behavior that demonstrates the person's inability to avoid or protect the person from such impairment or injury.

**Sec. BBBB-3. 34-B MRSA §3801, sub-§§7-A, 8-A, 10 and 11** are enacted to read:

**7-A. Progressive treatment program.** "Progressive treatment program" or "program" means a program of court-ordered services provided to participants under section 3873.

**8-A. Severe and persistent mental illness.** "Severe and persistent mental illness" means a diagnosis of one or more qualifying mental illnesses or disorders plus a listed disability or functional impairment that has persisted continuously or intermittently or is expected to persist for at least one year as a result of that disease or disorder. The qualifying mental illnesses or disorders are schizophrenia, schizoaffective disorder or other psychotic disorder, major depressive disorder, bipolar disorder or a combination of mental disorders sufficiently disabling to meet the criteria of functional disability. The listed disabilities or functional impairments, which must result from a diagnosed qualifying mental illness or disorder, include inability to adequately manage one's own finances, inability to perform activities of daily living and inability to behave in ways that do not bring the attention of law enforcement for dangerous acts or for acts that manifest the person's inability to protect the person from harm.

**10. Inability to make an informed decision.** "Inability to make an informed decision" means being unable to make a responsible decision whether to accept or refuse a recommended treatment as a result of lack of mental capacity to understand sufficiently the benefits and risks of the treatment after a thorough and informative explanation has been given by a qualified mental health professional.

**11. Assertive community treatment.** "Assertive community treatment" or "ACT" means a self-contained service with a fixed point of responsibility for providing treatment, rehabilitation and support services to persons with mental illness for whom other community-based treatment approaches have been unsuccessful. Assertive community treatment uses clinical and rehabilitative staff to address symptom stability; relapse prevention; maintenance of safe, affordable housing in normative settings that promote well-being; establishment of natural support networks to combat isolation and withdrawal; the minimizing of involvement with the criminal justice system; individual recovery education; and services to enable the person to function at a work site. Assertive community treatment is provided by multidisciplinary teams who are on duty 24 hours per day, 7 days per week; teams must include a psychiatrist, registered nurse, certified rehabilitation counselor or certified employment specialist, a peer recovery specialist and a substance abuse counselor and may include an occupational therapist, community-based mental health rehabilitation technician, psychologist, licensed clinical social worker or licensed clinical professional counselor. An ACT team member who is a state employee is, while in good faith performing a function as a member of an ACT team, performing a discretionary function within the meaning of Title 14, section 8104-B, subsection 3.

**Sec. BBBB-4. 34-B MRSA §3832, sub-§1,** as amended by PL 1983, c. 580, §10, is further amended to read:

**1. Patient's right.** A patient admitted under section 3831 is free to leave the hospital at any time after admission ~~without undue delay following examination by a licensed~~

~~physician or a licensed clinical psychologist, except that~~ within 16 hours of the patient's request unless application for admission of the person under section 3863 is ~~not precluded, if at any time such an admission is considered necessary in the interest of the person and of the community~~ initiated within that time.

**Sec. BBBB-5. 34-B MRSA §3863, sub-§2, ¶B,** as amended by PL 1997, c. 438, §2, is further amended to read:

> B. The physician, physician's assistant, certified psychiatric clinical nurse specialist, nurse practitioner or psychologist is of the opinion that the person is mentally ill and, because of that illness, poses a likelihood of serious harm. The written certificate must include a description of the grounds for that opinion.

**Sec. BBBB-6. 34-B MRSA §3863, sub-§5, ¶¶B and C,** as amended by PL 1995, c. 496, §2, are further amended to read:

> 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 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 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 must be filed within ~~5~~ 3 days from the date of admission of the patient under this section, ~~excluding the day of admission and any Saturday, Sunday or legal holiday~~ except that, if the 3rd day falls on a weekend or holiday, the application must be filed on the next business day following that weekend or holiday.
>
> C. If neither readmission on an informal voluntary basis 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 immediately.

**Sec. BBBB-7. 34-B MRSA §3863, sub-§5, ¶D** is enacted to read:

D. If the chief administrative officer of the hospital has filed an application in the District Court for an order of hospitalization under section 3864 but the hearing on the application has not yet been conducted, the chief administrative officer may also submit in the interim a request for an administrative hearing before a hearing officer employed by or under contract with the department to administer medication on an involuntary basis to the patient if the court orders such commitment. In such cases, the administrative hearing to consider the request for involuntary treatment must be held within 4 business days of the date of the court's order permitting involuntary hospitalization under section 3864.

**Sec. BBBB-8. 34-B MRSA §3863, sub-§8** is enacted to read:

**8. Rehospitalization from progressive treatment program.** The assertive community treatment team physician or psychologist may make a written application under this section to admit to a state mental health institute a person who fails to fully participate in the progressive treatment program in accordance with section 3873, subsection 5. The provisions of this section apply to that application, except that the standard for admission is governed by section 3873, subsection 5, paragraph B.

**Sec. BBBB-9. 34-B MRSA §3864, sub-§5, ¶A,** as enacted by PL 1983, c. 459, §7, is amended to read:

A. The District Court shall hold a hearing on the application not later than ~~15~~ 14 days from the date of the application.

(1) On a motion by any party, the hearing may be continued for cause for a period not to exceed 10 additional days.
(2) If the hearing is not held within the time specified, or within the specified continuance period, the court shall dismiss the application and order the person discharged forthwith.
(3) In computing the time periods set forth in this paragraph, the ~~District Court Civil Rules shall~~ Maine Rules of Civil Procedure apply.

**Sec. BBBB-10. 34-B MRSA §3864, sub-§5, ¶E,** as enacted by PL 1983, c. 459, §7, is amended to read:

E. In addition to proving that the patient is a mentally ill individual, the applicant ~~shall~~ must show:

(1) By evidence of the patient's recent actions and behavior, that due to the patient's mental illness the patient poses a likelihood of serious harm; and
(2) That, after full consideration of less restrictive treatment

settings and modalities, inpatient hospitalization is the best available means for the treatment of the person.

**Sec. BBBB-11. 34-B MRSA §3870, sub-§3, ¶C** is enacted to read:

C. Discharge from convalescent status occurs upon expiration of the period of involuntary commitment.

**Sec. BBBB-12. 34-B MRSA §3870, sub-§4, ¶C,** as enacted by PL 1997, c. 422, §22, is amended to read:

C. If the order is not voluntarily complied with, an involuntarily committed patient on convalescent leave may be returned to the hospital if the following conditions are met:

(1) An order is issued pursuant to paragraph A;
(2) The order is brought before a District Court Judge or justice of the peace; and
(3) Based upon clear and convincing evidence that return to the hospital is in the patient's best interest or that the patient poses a likelihood of serious harm, the District Court Judge or justice of the peace approves return to the hospital.

After approval by the District Court Judge or justice of the peace, a law enforcement officer may take the patient into custody and arrange for transportation of the patient in accordance with the provisions of section 3863, subsection 4.
This paragraph does not preclude the use of protective custody by law enforcement officers pursuant to section 3862.

**Sec. BBBB-13. 34-B MRSA §3871, sub-§6** is enacted to read:

**6. Discharge to progressive treatment program.** If a person participates in the progressive treatment program under section 3873, the time period of a commitment under this section terminates on entry into the progressive treatment program.

**Sec. BBBB-14. 34-B MRSA §3873** is enacted to read:

**§3873. Progressive treatment program**

**1. Program established.** The department shall establish the progressive treatment program to provide care for persons who meet the criteria of subsection 2.

**2. Criteria for participation.** The following criteria apply to participation in the progressive treatment program.

A. Participation in the program must be ordered by the District Court in accordance with this paragraph.

(1) The superintendent of a state mental health institute may file an application for an order of admission to the progressive treatment program with the District Court.
(2) The procedures for commitment under section 3864 apply, except that an order of admission to the progressive treatment program requires the following:

(a) A finding that the person meets the criteria of paragraph B;
(b) A finding that an assertive community treatment team is available to provide treatment and care for the person; and
(c) A provision in the order that requires the person to return to the state mental health institute pursuant to subsection 5 in the event of failure to fully participate and deterioration of the person's mental health so that hospitalization is in the person's best interest and the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D.

B. The person must:

(1) Be 21 years of age or older;
(2) Have been clinically determined to be suffering from a severe and persistent mental illness;
(3) Have been under an order of involuntary commitment to a state mental health institute at the time of filing of the application for progressive treatment; and
(4) Have been clinically determined to be in need of the progressive treatment program in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. A determination under this subparagraph must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and inability to make informed decisions regarding treatment.

**3. Duration of participation.** Except as provided in subsections 4 and 5, participation in the progressive treatment program must be for a term of 6 months. Participation ends if a person successfully completes the program in accordance with subsection 4 or is hospitalized pursuant to a court order entered under subsection 5. Participation in the

program is temporarily suspended if the person is voluntarily rehospitalized and recommences upon discharge from the hospital.

**4. Successful completion.** A person who fully participates in the program and who follows the individualized treatment plan successfully completes the program upon expiration of 6 months or certification by the assertive community treatment team physician or psychologist that the person is no longer in need of the services of the program.

**5. Termination of participation.** Failure of a person to fully participate in the program and follow the individualized treatment plan may result in termination of participation in the program and rehospitalization under this subsection.

A. If the person does not fully participate in the program and follow the individualized treatment plan and if the assertive community treatment team physician or psychologist determines, based on clinical findings, that as a result of failure to fully participate or follow the individualized treatment plan the person's mental health has deteriorated so that hospitalization is in the person's best interest and the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D, the assertive community treatment team physician or psychologist shall complete a certificate stating that the person requires hospitalization and the grounds for that belief. The person may agree to hospitalization or may be subject to an application for readmission under paragraph B.

B. A person who participates in the progressive treatment program may be rehospitalized on an emergency basis under the provisions of section 3863 if the judicial officer reviewing the certificate under section 3863, subsection 3 finds that rehospitalization is in the person's best interest and that the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. This paragraph does not preclude the use of protective custody by law enforcement officers pursuant to section 3862.

C. A person who participates in the progressive treatment program may be committed under section 3864 if the court reviewing the application finds that hospitalization is in the person's best interest and that the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D.

D. If the person has an advance directive or durable power of attorney or a guardian, the advance directive may be admitted into evidence and the attorney in fact or guardian may provide testimony and evidence to the court in any proceeding under this subsection. The court shall consider but is not required to follow any directions within the advance directive or durable power of attorney document or testimony from the attorney or guardian.

**6. Repeal.** This section is repealed July 1, 2010.

**Sec. BBBB-15. Implementation.** Implementation of the progressive treatment program under the Maine Revised Statutes, Title 34-B, section 3873 is subject to the following provisions.

1. The Department of Health and Human Services shall undertake a thorough review of the needs of persons who are eligible to participate in the progressive treatment program and the resources currently used to provide services to meet those needs. The department shall analyze the current costs of community-based care and hospitalization in community hospitals and state mental health institutes for persons who would be eligible to participate in the program. By October 1, 2006 the department shall report to the Joint Standing Committee on Health and Human Services with proposals for funding the progressive treatment program to the maximum extent possible by redirection of existing resources and use of funds that will not be needed because of participation in the program.

2. Operation of the progressive treatment program is limited for fiscal year 2006-07 to a project that may serve up to a maximum of 25 persons who are hospitalized on an involuntary basis at the Riverview Psychiatric Center, to be served by a combination of state employees and contracted staff, and up to a maximum of 25 persons who are hospitalized on an involuntary basis at the Dorothea Dix Psychiatric Center, to be served by community providers. During fiscal year 2006-07 the development of new resources or redirection of existing resources for a new assertive community treatment team is limited to one team serving persons who were previously hospitalized at Riverview Psychiatric Center and one team serving persons who were previously hospitalized at the Dorothea Dix Psychiatric Center.

**Sec. BBBB-16. Educational and training materials.** The Department of Health and Human Services shall develop and distribute educational and training materials with input from interested consumer, advocacy and professional organizations describing assertive community treatment, guardianship, advance directives, convalescent status, the process for medications for hospitalized patients and the progressive treatment program for distribution to the courts, judges, providers of mental health services, law enforcement officials, consumers, family members and the general public.

**Sec. BBBB-17. Department rules on progressive treatment program.** The Department of Health and Human Services shall amend its MaineCare rules in Section 17, "Community Support Services," to prohibit any provider of assertive community treatment from rejecting any person participating in the progressive treatment program.

**Sec. BBBB-18. Reports.** The Department of Health and Human Services shall submit reports describing the progress in the implementation and the measurable outcomes of the progressive treatment program to the joint standing committee of the Legislature having jurisdiction over health and human services matters on or before April 1, 2007 and January 1, 2008, 2009 and 2010.

# Appendix 1

**Sec. BBBB-19. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (formerly BDS)**
**Mental Health Services - Community 0121**
Initiative: Provides funds for the non-MaineCare reimbursable costs associated with assertive community treatment teams, including funds for one part-time Intensive Case Manager position.
**GENERAL FUND 2005-06 2006-07**

POSITIONS - FTE COUNT 0.000 0.500
Personal Services $0 $35,000
All Other $0 $86,222

GENERAL FUND TOTAL $0 $121,222

**Mental Health Services - Community Medicaid 0732**
Initiative: Provides funds for assertive community treatment teams at the Dorothea Dix Psychiatric Center.
**GENERAL FUND 2005-06 2006-07**

All Other $0 $115,237

GENERAL FUND TOTAL $0 $115,237

**Mental Health Services - Community Medicaid 0732**
Initiative: Provides funds for assertive community treatment teams at the Riverview Psychiatric Center.
**GENERAL FUND 2005-06 2006-07**

All Other $0 $190,000

GENERAL FUND TOTAL $0 $190,000

**Mental Health Services - Community Medicaid 0732**
Initiative: Provides funds for the state share of the costs to develop crisis residential units, including observation beds, as recommended by the Court Master in Paul Bates et al. v. Department of Behavioral and Developmental Services et al.
**GENERAL FUND 2005-06 2006-07**

All Other $0 $230,950

GENERAL FUND TOTAL $0 $230,950

**Riverview Psychiatric Center 0105**
Initiative: Transfers funds for assertive community treatment to the Mental Health Services - Community and Mental Health Services - Community Medicaid program.
**GENERAL FUND 2005-06 2006-07**

All Other $0 ($270,000)

GENERAL FUND TOTAL $0 ($270,000)

**HEATH AND HUMAN SERVICES**
**DEPARTMENT OF (Formerly BDS),**
**DEPARTMENT TOTALS 2005-06 2006-07**

**GENERAL FUND $0 $387,409**

**DEPARTMENT TOTAL -**
**ALL FUNDS $0 $387,409**

**HEALTH AND HUMAN SERVICES,**
**DEPARTMENT OF (Formerly DHS)**
**Medical Care - Payments to Providers 0147**
Initiative: Allocates the federal share of the costs associated with assertive community treatment teams.
**FEDERAL EXPENDITURES FUND 2005-06 2006-07**

All Other $0 $523,761

FEDERAL EXPENDITURES
FUND TOTAL $0 $523,761

**Medical Care - Payments to Providers 0147**
Initiative: Provides funds for the federal share of the costs to develop crisis residential units, including observation beds, as recommended by the Court Master in Paul Bates et al. v. Department of Behavioral and Developmental Services et al.
**FEDERAL EXPENDITURES FUND 2005-06 2006-07**

All Other $0 $389,050

FEDERAL EXPENDITURES
FUND TOTAL $0 $389,050

**HEALTH AND HUMAN SERVICES,**
**DEPARTMENT OF (Formerly DHS)**
**DEPARTMENT TOTALS 2005-06 2006-07**

**FEDERAL EXPENDITURES FUND $0 $912,811**

**DEPARTMENT TOTAL -**
**ALL FUNDS $0 $912,811**

**JUDICIAL DEPARTMENT**
**Courts - Supreme, Superior and District 0063**
Initiative: Provides funds for the additional costs associated with assertive community treatment teams.
**GENERAL FUND 2005-06 2006-07**

Personal Services $0 $2,882
All Other $0 $45,718

GENERAL FUND TOTAL $0 $48,600

**JUDICIAL DEPARTMENT**
**DEPARTMENT TOTALS 2005-06 2006-07**

**GENERAL FUND $0 $48,600**

**DEPARTMENT TOTAL -**
**ALL FUNDS $0 $48,600**

**SECTION TOTALS 2005-06 2006-07**

**GENERAL FUND $0 $436,009**
**FEDERAL EXPENDITURES**
**FUND $0 $912,811**

**SECTION TOTAL -**
**ALL FUNDS $0 $1,348,820**

**Sec. BBBB-20. Effective date.** This Part takes effect July 1, 2006.

# Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES
HEADING: PL 1995, C. 560, PT. K, §7 (RPR); 2001, C. 354, §3 (AMD)
Chapter 3: MENTAL HEALTH
Subchapter 4: HOSPITALIZATION
Article 3: INVOLUNTARY HOSPITALIZATION

## §3873. Progressive treatment program

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*
*(WHOLE SECTION TEXT REPEALED 7/1/10 by T. 34-B, §3873, sub-§6)*
*(WHOLE SECTION TEXT EFFECTIVE UNTIL 7/1/10)*

**1. Program established.** The department shall establish the progressive treatment program to provide care for persons who meet the criteria of subsection 2.

[ 2005, c. 519, Pt. BBBB, §14 (NEW); 2005, c. 519, Pt. BBBB, §20 (AFF) .]

**2. Criteria for participation.** The following criteria apply to participation in the progressive treatment program.

A. Participation in the program must be ordered by the District Court in accordance with this paragraph.

(1) The superintendent of a state mental health institute may file an application for an order of admission to the progressive treatment program with the District Court.

(2) The procedures for commitment under section 3864 apply, except that an order of admission to the progressive treatment program requires the following:

(a) A finding that the person meets the criteria of paragraph B;

(b) A finding that an assertive community treatment team is available to provide treatment and care for the person; and

(c) A provision in the order that requires the person to return to the state mental health institute pursuant to subsection 5 in the event of failure to fully participate and deterioration of the person's mental health so that hospitalization is in the person's best interest and the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. [2005, c. 519, Pt. BBBB, §14 (NEW); 2005, c. 519, Pt. BBBB, §20 (AFF).]

B. The person must:

(1) Be 18 years of age or older;

(2) Have been clinically determined to be suffering from a severe and persistent mental illness;

(3) Have been under an order of involuntary commitment to a state mental health institute at the time of filing of the application for progressive treatment; and

(4) Have been clinically determined to be in need of the progressive treatment program in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. A determination under this subparagraph must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and inability to make informed decisions regarding treatment. [2009, c. 321, §1 (AMD).]

[ 2009, c. 321, §1 (AMD) .]

**3. Duration of participation.** Except as provided in subsections 4 and 5, participation in the progressive treatment program must be for an initial period of 6 months or an extension of participation of 6 months. The District Court may not order participation in the progressive treatment program for longer than 12 months consecutively. Participation ends if a person successfully completes the program in accordance with subsection 4 or is hospitalized pursuant to a court order entered under subsection 5. Participation in the program is temporarily suspended if the person is voluntarily rehospitalized and recommences upon discharge from the hospital.

[ 2009, c. 321, §2 (AMD) .]

**3-A. Extension of participation.** Prior to the end of the initial period of participation under subsection 3, the District Court may order an extension of participation for 6 months for a person who is eligible under this subsection.

A. A person is eligible for an extension of participation if the person is a participant in the progressive treatment program and meets the requirements of subsection 2, paragraph B, subparagraphs (1), (2) and (4). [2009, c. 321, §3 (NEW).]

B. The assertive community treatment team providing treatment and care for the person shall determine whether the person is eligible for an extension of participation and whether an extension of participation is in the best interest of the person and shall complete a certificate stating those conclusions if they are in the affirmative and the basis for the conclusions.

[2009, c. 321, §3 (NEW).]

C. A physician, psychologist, certified psychiatric nurse specialist or nurse practitioner who is a member of the assertive community treatment team shall file with the District Court:

(1) The certificate completed under paragraph B;

(2) An application for an extension of participation; and

(3) A written statement certifying that a copy of the application and certificate under paragraph B have been given personally to the person and that the person has been notified of the right to retain an attorney or to have an attorney appointed. [2009, c. 321, §3 (NEW).]

D. The following procedures apply when an application for an extension of participation has been filed under paragraph C:

(1) The assertive community treatment team shall give notice personally to the person, including a copy of the certificate completed under paragraph B; and

(2) The person must be afforded an opportunity to be represented by counsel, and if neither the person nor others provide counsel, the court shall appoint counsel for the person. [2009, c. 321, §3 (NEW).]

E. The District Court shall:

(1) Provide notice in accordance with section 3864, subsection 3;

(2) Provide notice to the person of the right to counsel, including the right to court-appointed counsel, and if neither the person nor others have provided counsel, the court shall appoint counsel for the person;

(3) Provide notice to the person of the right to select an examiner for the mental health examination under subparagraph (4);

(4) Provide a mental health examination by 2 examiners, each of whom must be a licensed physician or a licensed clinical psychologist, in accordance with section 3864, subsection 4, paragraph A, subparagraph 2-A;

(5) Hold a hearing in accordance with section 3864, subsection 5, paragraphs A, C, G and H;

(6) Make a determination of whether the person is eligible for an extension of participation and whether an extension of participation is in the best interest of the person, based on findings stated in the record; and

(7) If the District Court finds that the person is eligible for an extension of participation and that an extension of participation is in the best interest of the person, the District Court shall enter an order extending participation for 6 months. If the District Court finds that the person is not eligible for an extension of participation or that an extension of participation is not in the best interest of the person, the District Court shall dismiss the application. [2009, c. 321, §3 (NEW).]

F. The provisions of section 3864, subsections 10 and 11 apply to expenses and the right of appeal. [2009, c. 321, §3 (NEW).]

[ 2009, c. 321, §3 (NEW) .]

**4. Successful completion.** A person who fully participates in the program and who follows the individualized treatment plan successfully completes the program upon expiration of 6 months or the 6-month period of extension ordered by the court under subsection 3-A or upon certification by the assertive community treatment team physician or psychologist that the person is no longer in need of the services of the program.

[ 2009, c. 321, §4 (AMD) .]

**5. Termination of participation.** Failure of a person to fully participate in the program and follow the individualized treatment plan may result in termination of participation in the program and rehospitalization under this subsection.

A. If the person does not fully participate in the program and follow the individualized treatment plan and if the assertive community treatment team physician , psychologist, certified psychiatric clinical nurse specialist or nurse practitioner determines, based on clinical findings, that as a result of failure to fully participate or follow the individualized treatment plan the person's mental health has deteriorated so that hospitalization is in the person's best interest and the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D, the assertive community treatment team physician , psychologist, certified psychiatric clinical nurse specialist or nurse practitioner shall complete a certificate stating that the person requires hospitalization and the grounds for that belief. The person may agree to hospitalization or may be subject to an application for readmission under paragraph B. [2009, c. 276, §2 (AMD).]

B. A person who participates in the progressive treatment program may be rehospitalized on an emergency basis under the provisions of section 3863 if the judicial officer reviewing the certificate under section 3863, subsection 3 finds that rehospitalization is in the person's best interest and that the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. This paragraph does not preclude the use of protective custody by law enforcement officers pursuant to section 3862. [2005, c. 519, Pt. BBBB, §14 (NEW); 2005, c. 519, Pt. BBBB, §20 (AFF).]

C. A person who participates in the progressive treatment program may be committed under section 3864 if the court reviewing the application finds that hospitalization is in the person's best interest and that the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. [2005, c. 519, Pt. BBBB, §14 (NEW); 2005, c. 519, Pt. BBBB, §20 (AFF).]

D. If the person has an advance directive or durable power of attorney or a guardian, the advance directive may be admitted into evidence and the attorney in fact or guardian may provide testimony and evidence to the court in any proceeding under this subsection. The court shall consider but is not required to follow any directions within the advance directive or durable power of attorney document or testimony from the attorney or guardian.

[2005, c. 519, Pt. BBBB, §14 (NEW); 2005, c. 519, Pt. BBBB, §20 (AFF).]
[ 2009, c. 276, §2 (AMD) .]

**6. Repeal.** This section is repealed July 1, 2010.

[ 2005, c. 519, Pt. BBBB, §14 (NEW); 2005, c. 519, Pt. BBBB, §20 (AFF) .]

SECTION HISTORY

2005, c. 519, §BBBB14 (NEW). 2005, c. 519, §BBBB20 (AFF). 2009, c. 276, §2 (AMD). 2009, c. 321, §§1-4 (AMD).

# Progressive Treatment Program Guidelines

# for

# Riverview and Dorothea Dix Psychiatric Centers

Public Law 2005, ch. 519, Part BBBB creates a Progressive Treatment Program in Maine. Program criteria are codified at 34-B M.R.S.A. § 3873. The Public Law limits initial availability of the program to persons previously hospitalized at either of the state's two public psychiatric hospitals, Riverview Psychiatric Center or Dorothea Dix Psychiatric Center. Each of those hospitals is associated with an assertive community treatment team that will provide community-based care for patients who have been ordered by the District Court to participation in the Progressive Treatment Program. This document describes the criteria and processes to be followed in operating the program. As use over time dictates, these guidelines may be revised as necessary.

## Definitions

In the context of the Progressive Treatment Program, the following words and phrases have the following meanings.

**Assertive Community Treatment ("ACT")** means a self-contained service with fixed point of responsibility for providing treatment, rehabilitation and support services to persons with mental illness for whom other community-based treatment approaches have been unsuccessful. Assertive community treatment uses clinical and rehabilitative staff to address symptom stability; relapse prevention; maintenance of safe, affordable housing in normative settings that promote well-being; establishment of natural support networks to combat isolation and withdrawal; the minimizing of involvement with the criminal justice system; individual recovery education; and services to enable the person to function at a work site. Assertive community treatment is provided by multidisciplinary teams who are on duty 24 hours per day, 7 days per week; teams must include a psychiatrist, registered nurse, certified rehabilitation counselor or certified employment specialist, a peer recovery specialist and a substance abuse counselor and may include an occupational therapist, community-based Mental Health Rehabilitation Technician/Community (MHRT/C), psychologist, licensed clinical social worker or licensed clinical professional counselor. (See 34-B M.R.S.A. § 3801(11).)

**Disability or Functional Impairment** means a disability or functional impairment that results from a diagnosed Qualifying Mental Illness, and includes the inability to manage one's own finances, inability to perform activities of daily living, inability to behave in ways the do not bring the attention of law enforcement for dangerous acts or for acts that manifest the person's inability to protect from harm. (See 34-B M.R.S.A. § 3801(8-A).)

**Inability to Make an Informed Decision** means inability to make a responsible decision about accepting or refusing a recommended treatment as a result of a lack of mental capacity to understand sufficiently the benefits and risks of the treatment after a thorough and informative explanation has been given by a qualified mental health professional. (See 34-B M.R.S.A. § 3801(10).)

**Likelihood of Serious Harm** means, in view of the person's treatment history, current behavior and Inability to Make an Informed Decision, a reasonable likelihood

that deterioration of the person's mental health will occur

AND

that the person will in the foreseeable future pose:

(1) A substantial risk of physical harm to the person as manifested by evidence of recent threats of, or attempts at, suicide or serious bodily harm;
(2) A substantial risk of physical harm to other persons as manifested by recent evidence of homicidal or other violent behavior or recent evidence that others are placed in reasonable fear of violent behavior and serious physical harm to themselves; or
(3) A substantial risk of severe physical or mental impairment or injury to the person as manifested by recent evidence of actions or behavior that demonstrates the person's inability to avoid or protect the person from such impairment or injury. (See 34-B M.R.S.A. § 3801(4)(D).)

**Progressive Treatment Program (PTP)** means a program of court-ordered services provided in an outpatient setting by a specialized Assertive Community Treatment team for a term of six months. (See 34-B M.R.S.A. § 3873.)

**Qualifying Mental Illness** means schizophrenia, schizoaffective disorder, other psychotic disorder, major depressive disorder, bipolar disorder, or other combination of mental disorders sufficiently disabling to meet the criteria of functional disability. (See 34-B M.R.S.A. § 3801(8-A).)

**Severe and Persistent Mental Illness** means a Qualifying Mental Illness plus a Disability or Functional Impairment that has persisted (continuously or intermittently) or that is expected to persist for at least one year as a result of the Qualifying Mental Illness. (See 34-B M.R.S.A. § 3801(8-A).)

## Eligible recipients

To be eligible for District Court commitment to the PTP, a person must:

(1) Be 21 years of age or older;

(2) Have been clinically determined to be suffering from a Severe and Persistent Mental Illness;

(3) Have been under an order of involuntary commitment to Dorothea Dix Psychiatric Center or Riverview Psychiatric Center at the time of filing of the application for PTP; and

(4) Have been clinically determined to be in need of the PTP in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm. This determination must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and Inability to Make Informed Decisions regarding treatment.

5) Be able to live within a 25 mile radius of the referring state public psychiatric hospital without undue disruption of the person's natural support system, as negotiated with the person or their representative, for the duration of the PTP.

## Procedure for Referral to the Progressive Treatment Program

(1) The treating psychiatrist at the state mental health institute, in consultation with the hospital treatment team will

- determine that the person for whom PTP may be proposed is 21 years of age or older;
- determine that the person for whom PTP may be proposed suffers from a Severe and Persistent Mental Illness; and
- at least 30 days prior to expiration of the current involuntary commitment order, assess the person for appropriateness for the PTP.
  - The assessment must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and Inability to Make Informed Decision
  - The assessment must determine whether the person is in need of the PTP in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a Likelihood of Serious Harm.

(2) If the person is determined to meet all the requirements for court-ordered participation in a PTP, then the hospital will submit the following documents to District Court, along with any other documents that the court may require:

- Application to District Court for an Order of Admission to the Progressive Treatment Program (Form MH 108-PTP)
- Application for Emergency Involuntary Hospitalization to a Mental Hospital (Form MH-100)('blue paper")
- 24 hour certificate

- certification by the Chief Administrative Officer that the patient has been given a copy of the court application and documents attached to that application
- copy of notice and instructions given to the patient

(3) The hospital treatment team will make a written referral to the ACT team responsible for providing outpatient PTP services and will request consultation in developing the outpatient treatment plan for submission to District Court. As with all treatment planning, the person will be involved, and their advanced directive, if available, will be considered as part of the planning for community tenure. This will happen as soon as possible.

## Application for District Court Order for Admission to PTP

(1) The superintendent will file an application for an order of admission to the PTP with the District Court, using form MH-108-PTP.

(2) The usual procedures and timing for events leading up to the hearing will apply (see 34-B M.R.S.A. § 3864), including filing and production of all required documentation and notices, appointment of counsel and examiners, and timing of the hearing and decision.

### A. Court Procedure

(1) The usual court hearing procedures will apply. (see 34-B M.R.S.A. § 3864)

(2) The outside examiners and judge will use the standard for Likelihood of Serious Harm defined above to determine whether the patient meets criteria for court-ordered admission to the PTP.

(3) The District Court's order of admission to the PTP will include the following:

(a) A finding that the person meets the first four criteria outlined above under paragraph B, above (Eligible Recipients);

(b) A finding that an ACT team is available to provide treatment and care for the person;

(c) A finding that the person has been clinically determined to be in need of the PTP in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in the community setting in the reasonably foreseeable future without posing a Likelihood of Serious Harm.

(d) A requirement that the person must return to the state mental health institute in the event of failure to participate fully in the PTP and deterioration of the person's mental health so that hospitalization is in the

person's best interest and the person poses a Likelihood of Serious Harm. (See 34-B M.R.S.A. § 3864(5).)

(e) An order that participation in the PTP be for a term of six months.

**B. Duration of Participation in the Progressive Treatment Program**

Participation in the PTP (but not necessarily the ACT team) ends:

1. At the end of the six-month court-ordered term.

2. If, during the six-month term, the person has fully participated in the program and followed the individualized treatment plan, and the ACT team psychiatrist or psychologist certifies that the person is not longer in need of the services of the program.

3. If the person is re-hospitalized involuntarily by court order after district court hearing.

If the person is re-hospitalized on a voluntary basis during the PTP term, program participation is not terminated but instead is temporarily suspended and recommences upon discharge from the hospital.

If the person is re-hospitalized on an emergency involuntary basis during the PTP term (i.e. person's legal status is either on "blue papers" or being held pending court hearing), the PTP continues to run while the patient is in the hospital until either: 1) the patient converts to voluntary status - in which case the PTP is suspended, to be resumed upon discharge, or 2) the person is involuntarily committed by court order following a hearing - in which case the PTP ends. If the person is does not convert to voluntary status and is discharged back to the Progressive Treatment Program before the district court hearing, the PTP continues to run throughout the hospitalization.

**C. Involuntary Re-Hospitalization from the Progressive Treatment Program**

(1) Upon application of the ACT team physician or psychologist, a person in a PTP who does not participate fully in the program and follow the individualized treatment plan may be re-hospitalized. Based on clinical findings, the applicant must determine that as a result of failure to participate fully or to follow the individualized treatment plan, the person's mental health has deteriorated so that hospitalization is in the person's best interest and the person poses a Likelihood of Serious Harm. The applicant must complete a certificate (form MH-100-PTP) stating that the person requires hospitalization and stating the grounds for that belief.

If the person in the PTP agrees to voluntary hospitalization after the certificate has been signed, and if the applicant believes that voluntary hospitalization is available and appropriate, the applicant can decide not to present the form MH-100-PTP to a judicial officer for signature.

(2) If the judicial officer reviewing MH-100-PHP authorizes re-hospitalization, the person in the PTP may be re-hospitalized on an emergency involuntary basis.

Once the person is re-admitted to the state psychiatric hospital on an emergency involuntary basis from the PTP, the procedures described in sections D and E above apply, except that the application form filed with the court will be the Application to District Court for an Order of Commitment of Person in Progressive Treatment Program (MH-108-PTP Re-Hospitalization) and the blue paper will be the Application for Emergency Involuntary Admission of a Progressive Treatment Program Client to a Mental Hospital (MH-100-PTP).

(3) If the person has an advance directive or durable power of attorney or a guardian, the advance directive may be admitted into evidence at the re-hospitalization hearing, and the attorney in fact or guardian may provide testimony and evidence to the court. The court shall consider but is not required to follow any directions within the advance directive or durable power of attorney document or testimony from the attorney or guardian.

**Appendix 2**

# Forms

The following forms are included for informational purposes:

1) **STATE OF MAINE**
**APPLICATION TO DISTRICT COURT FOR AN ORDER OF COMMITMENT OF PERSON IN PROGRESSIVE TREATMENT PROGRAM**- MH 108 PTP Nov 2006

2) ORDER OF ADMISSION TO PROGRESSIVE TREATMENT

3) **STATE OF MAINE**
**APPLICATION FOR EMERGENCY INVOLUNTARY ADMISSION OF A PROGRESSIVE TREATMENT PROGRAM CLIENT TO A MENTAL HOSPITAL**-MH 100 PTP Nov 2006

# Appendix 2

STATE OF MAINE
APPLICATION TO DISTRICT COURT FOR AN ORDER OF ADMISSION TO THE PROGRESSIVE TREATMENT PROGRAM

TO THE DISTRICT COURT, District ____, Division of _____, County of _____ and State of Maine:

1. Application is made pursuant to 34-B M.R.S.A. § 3873 for a hearing to be held in accordance with 34-B M.R.S.A. § 3864 to determine whether _____ (the "patient"), who was admitted to _____**Psychiatric Center** on _____, shall be ordered admitted to the progressive treatment program.

2. The basis for seeking an order admitting this patient to the progressive treatment program is as follows:

    1. The patient is 21 years old;
    2. The patient is currently involuntarily committed to this hospital;
    3. The patient suffers from a severe and persistent mental illness; and
    4. The patient has been clinically determined to need progressive treatment in order to prevent interruptions in treatment, relapse, and deterioration of mental health; and in order to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm.

3. The Applicant requests that the District Court:

    A. Cause written notice of this application to be given to the patient, to whom notice may be delivered at _____ Psychiatric Center, _____, _____, ME _____;
    B. Cause written notice of this application to be given within two days to the patient's guardian, if any, and to one of the following: spouse, patient, adult, child, next of kin or friend. Applicant believes that notice to the guardian (if any) may be sent to _____ at _____and that the appropriate other person to receive notice is _____, whose address is _____;
    C. At least three days after this application is filed, appoint legal counsel for the patient, if the patient is not represented by counsel;
    D. At least three days after this application is filed, cause the patient to be examined by two independent examiners, one of whom shall be chosen by the patient or his counsel, each examiner being either a licensed physician or a licensed clinical psychologist; and
    E. Schedule a hearing to be held not later than fourteen days from the date of this application.

Date:_____

_____
Chief Administrative Office, CAO's Designee
Commissioner, or Commissioner's Designee
(circle one)

_____ **Psychiatric Center**

MH 108 PTP Nov 2006

STATE OF MAINE

KENNEBEC, SS

Seventh District Court
Division of Southern Kennebec
Docket No. AUG-MH-_____

In re: _____

ORDER OF ADMISSION TO PROGRESSIVE TREATMENT PROGRAM

Notice having been duly and seasonably given according to law to the respondent and to other interested persons as ordered by the court, and a hearing having been had on the issues involved, at which hearing the respondent was represented by counsel or declined to be represented by counsel after full exploration of the respondent's right to counsel, and full consideration having been given to the evidence, including the reports of two examiners appointed by this court and to the record, the court finds by clear and convincing evidence that:

1. The respondent is 21 years old or older;
2. The respondent is currently involuntarily committed to Riverview Psychiatric Center;
3. The respondent suffers from a severe and persistent mental illness;
4. Based on the respondent's (i) current behavior; (ii) treatment history; and (iii) history of positive responses to treatment during hospitalization, relapse and deterioration of mental health following discharge, and inability to make informed decisions regarding treatment, the respondent is in need of progressive treatment in order to prevent interruptions in treatment, relapse, and deterioration of mental health, and in order to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm under 34-B M.R.S.A. § 3801(4)(D).
5. An assertive community treatment team is available to provide treatment and care for the respondent.

Now therefore it is ordered that:

1. _____ be admitted to the progressive treatment program and shall remain in the program for a period of 6 months, except that participation will terminate before the 6 month period is complete (i) if and when the assertive community treatment team psychologist or physician certifies that the respondent no longer needs progressive treatment program services or (ii) upon involuntary re-hospitalization by court order of the respondent;
2. In the event that the respondent fails to participate fully in the Progressive Treatment Program and the respondent's mental health deteriorates such that hospitalization is in the respondent's best interest and the respondent poses a likelihood of serious harm as defined in 34-B M.R.S.A. § 3801(4)(D), the respondent must return to Riverview Psychiatric Center pursuant to 34-B M.R.S.A. § 3873(5).

Date:_____ _____

January 2007 Judge, Maine District Court

STATE OF MAINE
APPLICATION FOR EMERGENCY INVOLUNTARY ADMISSION OF A PROGRESSIVE TREATMENT PROGRAM CLIENT TO A MENTAL HOSPITAL

1. **Application and Certification.**

I am a licensed _____ and a member of the Assertive Community Treatment team
M.D./D.O./Ph.D.
that provides court-ordered progressive treatment services to _____.
Proposed patient

I examined the proposed patient on _____.
Date

I hereby certify that the proposed patient does not fully participate in the Progressive Treatment Program and follow the individualized treatment plan, and that, as a result, the proposed patient's mental health has deteriorated so that hospitalization is in his or her best interest.

I further certify that the proposed patient poses a likelihood of serious harm as defined in 34-B M.R.S.A. § 3801(4)(D) (see reverse) based on the following clinical findings:

_____
Basis for the determination that the proposed patient requires hospitalization, including foreseen risk of harm

I believe that _____ is the least restrictive form of transportation that meets
Ambulance or other (please specify)
the proposed patient's clinical needs.
I hereby apply under 34-B M.R.S.A. § 3863 (8) for emergency admission of the proposed patient to _____Psychiatric Center.
Riverview/Dorothea Dix

_____ _____ _____
Date Printed name Signature

Name and address of proposed patient's guardian, spouse, parent, adult child, next of kin, or friend:

_____

2. **Judicial Review and Endorsement.**

Upon review pursuant to 34-B M.R.S.A. § 3863 and § 3873, I find this application and certificate to be regular and in accordance with the law, and that re-hospitalization is in the person's best interest, and that the person poses a likelihood of serious harm. I hereby authorize _____to take _____
Person authorized to take proposed patient into custody Proposed patient

into custody and transport him or her to _____Psychiatric Center.
Riverview/Dorothea Dix

_____ _____ _____ _____
Date Judicial officer's printed name Judicial officer's signature Judicial officer's capacity (District, Probate or Superior Court Judge or Justice; Justice of the Peace)

INSTRUCTIONS

General

A. The application expires 3 days after the patient's admission to the hospital, except that if the third day is a weekend or holiday, the application expires on the next business day following the weekend or holiday.

B. Before this application is presented for judicial signature, the proposed patient should be given the option to agree to voluntary hospitalization.

C. The application cannot be altered after it has been judicially endorsed.

Section 1

A. The certifying examination must take place no more than two days before the person is admitted to the hospital.

B. "Likelihood of serious harm" for the purposes of the Progressive Treatment Program is defined in 34-B M.R.S.A. § 3801(4)(D) to mean:

*In view of the person's treatment history, current behavior and inability to make an informed decision, a reasonable likelihood that deterioration of the person's mental health will occur and that the person will in the foreseeable future pose:*

1. *A substantial risk of physical harm to the person as manifested by evidence of recent threats of, or attempts at, suicide or serious bodily harm;*
2. *A substantial risk of physical harm to other persons as manifested by recent evidence of homicidal or other violent behavior or recent evidence that others are placed in reasonable fear of violent behavior and serious physical harm to themselves; or*
3. *A substantial risk of severe physical or mental impairment or injury to the person as manifested by recent evidence of actions or behavior that demonstrates the person's inability to avoid or protect the person from such impairment or injury.*

In specifying grounds for the application, the applicant should include identification of the risk of harm that is being considered.

C. The applicant should provide name and address of the proposed patient's guardian, spouse, parent, adult, next of kin, or (if none of those exists) friend so that the hospital can fulfill its obligation to notify that person.

Section 2

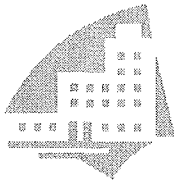
The applicant must fill in the name of the transporter and the destination Psychiatric Center before seeking judicial endorsement.

# A Brief Overview of Maine's Progressive Treatment Program

### What is this new program?

The Progressive Treatment Program (PTP) was established in law in 2006 by the 122nd Maine Legislature. It is a program limited to certain persons with severe and persistent mental illness who are involuntarily hospitalized at Riverview or Dorothea Dix Psychiatric Centers and meet specific criteria. If these criteria are met, a person can be assigned by the court to a specialized outpatient Assertive Community Treatment (ACT) Team where he or she will receive treatment in the least restrictive setting. The PTP is available only in the Augusta and Bangor areas.

### Who is eligible for this new service?



A person 21 years old or older who is severely mentally ill and has chosen not to accept treatment is a candidate for the Progressive Treatment Program. If she or he is committed to Riverview (Augusta) or Dorothea Dix (Bangor) Psychiatric Center, and has shown a good response to treatment during a hospital stay, then that person may be considered for the PTP.

## How does a person get referred for PTP services?

The inpatient treatment team at either Riverview Psychiatric Center or Dorothea Dix Psychiatric Center consults with the Assertive Community Treatment (ACT) service provider in that area and makes a formal application to the court for commitment to the PTP to receive the services of an outpatient Assertive Community Treatment Team.

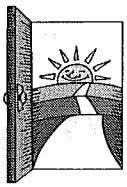
### How is the court involved?

The judge considers the application presented by the hospital team and the person's attorney and accepts or rejects the application. If the judge accepts the team's recommendation, he or she orders assignment to the PTP for a period of six months. The person is then committed to outpatient ACT services.

## What are ACT services?

The Assertive Community Treatment (ACT) Team is a multi-disciplinary group of mental health professionals who work closely to provide a broad range of treatment and rehabilitation services. They are available 24 hours a day, seven days a week, and meet the person receiving their services wherever he or she needs them, at home, at work, or in a coffee shop.

## How does the person leave the PTP?



After six months, if the person has participated in the ACT services as ordered by the court, and become more stable in his or her community living situation, the PTP ends. The person can continue receiving services from the ACT Team if he or she chooses. If a person needs hospitalization during the six month term of the PTP, and chooses to accept it on a voluntary basis, the PTP is suspended until he or she is able to return to the community. Sometimes it may be necessary to return a person to the hospital on an emergency involuntary basis. If that person is not willing to stay on a voluntary basis and is determined to need continued hospitalization, the term of the PTP ends. A return to the PTP requires a new application to the court.

If you are interested in a more detailed description of the Progressive Treatment Program, you can go to the website for the DHHS, Office of Adult Mental Health Services at: **http://www.maine.gov/dhhs/mh** under Rights and Legal Issues or contact the **Office of Adult Mental Health Services, State of Maine Department of Health and Human Services, (207) 287-4250, State House Station #11, Hospital Street, Marquardt Building, 2nd Floor, Augusta, Maine 04333-0040**