

§3003. Rules

1. Promulgation. The commissioner shall adopt rules, subject to the Maine Administrative Procedure Act, Title 5, chapter 375, for the enhancement and protection of the rights of clients receiving services from the department, from any hospital pursuant to subchapter IV or from any program or facility administered or licensed by the department under section 1203-A.

[PL 1993, c. 410, Pt. CCC, §17 (AMD).]

2. Requirements. The rules shall include, but are not limited to:

A. Establishment of the right to provision of treatment and related services in the least restrictive appropriate setting; [PL 1983, c. 459, §7 (NEW).]

B. Establishment of the right to an individualized treatment or service plan, to be developed with the participation of the client; [PL 1983, c. 459, §7 (NEW).]

C. Standards for informed consent to treatment, including reasonable standards and procedural mechanisms for determining when to treat a client absent informed consent, consistent with applicable law, except that involuntary treatment of involuntarily hospitalized incapacitated persons who are unwilling or unable to comply with treatment is allowed solely in accordance with the provisions of section 3861, subsection 3 or section 3864, subsection 1-A; [PL 2007, c. 580, §1 (AMD).]

D. Standards for participation in experimentation and research; [PL 1983, c. 459, §7 (NEW).]

E. Standards pertaining to the use of seclusion and restraint; [PL 1983, c. 459, §7 (NEW).]

F. Establishment of the right to appropriate privacy and to a humane treatment environment; [PL 1983, c. 459, §7 (NEW).]

G. Establishment of the right to confidentiality of records and procedures pertaining to a person's right to access to that person's mental health care records; [RR 2019, c. 2, Pt. B, §93 (COR).]

H. Establishment of the right to receive visitors and to communicate by telephone and mail; [PL 1983, c. 459, §7 (NEW).]

I. Procedures to ensure that clients are notified of their rights; [PL 1983, c. 459, §7 (NEW).]

J. The right to assistance in protecting a right or advocacy service in the exercise or protection of a right; [PL 1987, c. 246, §1 (AMD).]

K. Provisions for a fair, timely and impartial grievance procedure for the purpose of ensuring appropriate administrative resolution of grievances with respect to infringement of rights; and [PL 1987, c. 246, §1 (AMD).]

L. To the extent that state and community resources are available, establishment of the rights of long-term mentally ill clients containing the following requirements:

(1) The right to a service system which employs culturally normative and valued methods and settings;

(2) The right to coordination of the disparate components of the community service system;

(3) The right to individualized developmental programming which recognizes that each long-term mentally ill individual is capable of growth or slowing of deterioration;

(4) The right to a continuum of community services allowing a gradual transition from a more intense level of service; and

(5) The right to the maintenance of natural support systems, such as family and friends of the long-term mentally ill individual and formal and informal networks of mutual and self-help.

[PL 1987, c. 246, §2 (NEW).]

[RR 2019, c. 2, Pt. B, §93 (COR).]

3. Public hearing. The commissioner shall hold a public hearing before adopting these rules and shall give notice of the public hearing pursuant to the Maine Administrative Procedure Act, Title 5, section 8053.

[PL 1995, c. 560, Pt. K, §32 (AMD).]

4. Legislative review. When a rule is proposed or adopted under this section, a copy of the proposed or adopted rule shall be sent to the legislative committee having jurisdiction over health and institutional services.

A. The committee may review the rule and, if it determines that an adopted rule should be stricken or amended, the committee may prepare legislation to accomplish that purpose and submit the legislation to the full Legislature in accordance with legislative rules. [PL 1983, c. 459, §7 (NEW).]

B. The adopted rule shall remain in effect unless the full Legislature acts to strike or amend it, or it is repealed or amended by the director in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 645, §4 (AMD). PL 1987, c. 246, §§1,2 (AMD). PL 1993, c. 410, §CCC17 (AMD). PL 1995, c. 560, §K32 (AMD). PL 2007, c. 446, §1 (AMD). PL 2007, c. 446, §7 (AFF). PL 2007, c. 580, §1 (AMD). RR 2019, c. 2, Pt. B, §93 (COR).

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