

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

H.P. 1309 - L.D. 1758

**An Act Regarding Access to Telehealth Behavioral Health Services during
Public Health Emergencies**

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

Sec. 1. 22 MRSA §51 is enacted to read:

**§51. Exemption to written informed consent requirement for mental health services
and substance use disorder treatment during public health emergency**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. “Licensed facility” means a facility licensed under Title 5, section 20005, subsection 6, paragraph B or Title 34-B, section 1203-A.

B. “Public health emergency” means a federal public health emergency declared pursuant to 42 United States Code, Section 247d or a state public health emergency declared pursuant to section 802 or Title 37-B, chapter 13, subchapter 2.

2. Informed consent. The department may not require a licensed facility to obtain written informed consent from a person receiving mental health services or substance use disorder treatment from the licensed facility during a public health emergency. A licensed facility shall obtain consent from a person receiving mental health services or substance use disorder treatment during a public health emergency; such consent may be obtained through verbal, electronic or written means.

3. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Department of Health and Human Services to amend certain licensing rules. No later than January 1, 2023, the Department of Health and Human Services shall amend its rules in 14-193 C.M.R. Chapter 6, Licensing of Mental Health Facilities, and 14-118 C.M.R. Chapter 5, Regulations for Licensing and Certifying of Substance Abuse Treatment Programs, to allow a facility licensed under the Maine Revised Statutes, Title 5, section 20005, subsection 6, paragraph B or Title 34-B, section 1203-A to

obtain consent through verbal, electronic or written means from a person during a public health emergency in accordance with Title 22, section 51. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.