

STATE OF MAINE
WEAPONS RESTRICTION ORDER
34-B M.R.S. § 3862-A

INFORMATION FOR MEDICAL PRACTITIONER

Protection from Substantial Threats

In 2019, the Maine Legislature enacted a weapons restriction law – Protection from Substantial Threats – for those persons taken into protective custody by law enforcement and determined by a medical practitioner to present a likelihood of foreseeable harm. The law became effective on July 1, 2020. Under the law, a “medical practitioner” or “practitioner” is a licensed physician, registered physician assistant, certified psychiatric clinical nurse specialist, certified nurse practitioner, or licensed clinical psychologist.

Likelihood of Serious Harm – “Blue Paper” Assessment

When a law enforcement officer takes a person into protective custody, the officer must immediately present the person for examination by a medical practitioner to determine if the person is mentally ill and, because of that illness, poses a likelihood of serious harm for which emergency admission to a psychiatric hospital is necessary. Law enforcement must provide to the practitioner the information that led to protective custody, any pertinent criminal history record information and other known history, and recent or recurring actions and behaviors.

Likelihood of Foreseeable Harm – Weapons Restriction Assessment

When law enforcement has probable cause that the person taken into protective custody possesses, controls, or may acquire a dangerous weapon, the practitioner shall also assess whether the person presents a “likelihood of foreseeable harm” and, if so, shall notify law enforcement in writing of such determination. (At the time of the assessment, law enforcement will provide a form for the practitioner’s assessment and signature, which law enforcement will thereafter seek judicial endorsement.)

"Likelihood of foreseeable harm" means a substantial risk in the foreseeable future of serious physical harm to the person as manifested by recent behaviors or threats of, or attempts at, suicide or serious self-inflicted harm, or a substantial risk in the foreseeable future of serious physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct or statements placing others in reasonable fear of serious physical harm.

In assessing the person, the practitioner may consult with other medical professionals as the practitioner determines advisable. A person under 18 years of age undergoing such an assessment may request accompaniment by a parent, guardian, grandparent, aunt or uncle or a sibling who has attained the age of 18, provided that the accompanying person is timely available and whose accompaniment is practicable.

Immunity

A medical practitioner and any other medical or mental health professional consulted by the medical practitioner are not liable in a civil action brought by any person for any act performed in good faith in execution of the obligations imposed on medical practitioners by law, including any decision regarding the affirmative or negative assessment of the likelihood of foreseeable harm. The immunity also applies to a principal if the medical practitioner or professional is acting as an agent or employee of the principal.