

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 104

H. P. 93

House of Representatives, January 17, 1979

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Prescott of Hampden.

Cosponsor: Mr. Martin of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Establish the Legal Rights of Hospital Patients Without Jeopardizing
their Right to Care or Treatment.**

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

Sec. 1. 4 MRSA § 152, first ¶, as last amended by PL 1977, c. 401, § 1, is further amended by adding at the end a new sentence to read:

The District Court shall possess civil jurisdiction over actions for damages authorized by Title 22, section 1735.

Sec. 2. 22 MRSA c. 402 is enacted to read:

CHAPTER 402

RIGHTS OF HOSPITAL PATIENTS

§ 1731. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Hospital.** "Hospital" shall mean any health care facility located in this State which is licensed as a hospital by the Department of Human Services.

2. **Patient.** "Patient" shall mean any person who is admitted to a hospital for actual or potential sickness or injury. The term "patient" includes both inpatients and outpatients.

3. **Patient rights advocate.** "Patient rights advocate" shall mean an individual, other than a doctor or hospital administrator, whose primary responsibility is to assist the patient in learning about, protecting and asserting his rights under this chapter.

§ 1732. Enumeration of rights

A patient shall have the following rights:

1. **Care.** The right to considerate and respectful care;
2. **Information on diagnosis, treatment and prognosis.** The right to obtain from his physician complete and current information concerning his diagnosis, treatment and prognosis in terms the patient can be reasonably expected to understand. When the patient is incapable of or unwilling to receive this information, it shall be made available to an appropriate person in his behalf;
3. **Information for informed consent.** The right to receive from his physician information necessary to give informed consent prior to the start of any procedure or treatment. Except in emergencies this information shall include, but not necessarily be limited to, the medically significant risks involved, the probability of success and the probable duration of incapacitation. Where medically significant alternatives for care exist the patient shall be advised that there are alternatives available. These alternatives shall be documented on the patient's chart;
4. **Name and status of those providing service.** The right to know the name and professional status of all who propose to provide service, including the right to know the physician responsible for his care;
5. **Consent to any procedure.** The right not to be subjected to any procedure without his voluntary, competent and understanding consent, unless he is mentally or physically unable to consent, or unless the procedure is necessary to provide emergency medical treatment. This includes the right to leave the health facility at any time and to be advised of the consequences of his actions;
6. **Privacy.** The right to every consideration of his privacy concerning his own medical care program. Case discussion, consultation, examination and treatment are confidential and shall be conducted discreetly. Those not directly involved in his care shall secure the permission of the patient to be present. Participation in clinical teaching programs shall be voluntary;
7. **Communications and records; confidential.** The right to expect that all communications and records pertaining to his care shall be confidential and shall be available only to those directly involved with that care unless he otherwise gives his written permission;

8. Examination of medical record. The right to examine the content of his medical record upon request while in the hospital and to receive a complete and unexpurgated copy of his record upon request following discharge. The patient has the right to expunge from the record personal material not related to clinical procedures. The cost of copies of the patient's record shall be borne by the patient;

9. Prompt attention in emergencies. The right to prompt attention in an emergency situation. When medically permissible, a patient may be transferred to another facility only after he has received complete explanation of the needs for and alternatives to such a transfer. The institution to which the patient is to be transferred must first have accepted the patient for transfer;

10. Consultation with specialists. The right to consult with a specialist at his own request and expense. A patient has the right to know if any business relationship exists between his own physician and the one he consults;

11. Medical research or experimentation. The right to be advised if he is to be involved in medical research or experimentation, either at the time of treatment or any time thereafter, and the right to refuse to participate in any such projects;

12. Visitors and telephone. The right of access to people outside the hospital by means of visitors and telephone. Parents or guardians may stay with their children 24 hours a day. The critically and terminally ill shall be allowed the continuous presence of a family member or friend;

13. Health care following discharge. The right to expect the hospital to provide a mechanism whereby he is informed by his physician of his continuing health care requirements following discharge and what resources are available to meet those requirements;

14. Explanation of bill. The right to receive an itemized and detailed explanation of his hospital bill regardless of the source of payment;

15. Abridgment of rights. The right to be advised if any consent form he is asked to sign will abridge any of the rights set out in this chapter and to understand that he will not be denied treatment for refusing to give up those rights;

16. Hospital rules and regulations. The right to know what hospital rules and regulations apply to his conduct as a patient; and

17. Patient rights advocate. The right to reasonable access to a patient rights advocate where these advocates are required under this law.

§ 1733. Appointment of patient rights advocate

1. Appointment. The board of directors of every hospital of over 150-bed capacity shall by December 1, 1979, appoint a committee of 3 private citizens which shall hire or appoint a patient rights advocate for that hospital. The hospital shall from its own funds pay the advocate an annual salary of at least \$10,000. The

salary shall be paid in equal installments on the same schedule as that for administrative employees of the hospital. The advocate shall be responsible only to that committee for his employment.

2. **Human Rights Commission.** The Maine Human Rights Commission shall ensure that each hospital appoints a patient rights advocate by January 1, 1980 and that any vacancy is filled within 30 days of its occurrence. If a patient rights advocate is not appointed for a hospital required to have one under this section, or if a vacancy is not filled within the required time limit, the Maine Human Rights Commission shall appoint an advocate to a term of one year, who shall otherwise serve as if appointed under subsection 1.

§ 1734. **Information concerning rights and advocate**

1. **Furnished to patient.** Each hospital shall supply each patient at the time of, or prior to, his admission with a list of the rights enumerated in section 1732. Each hospital of over 150-bed capacity shall also supply that patient with the name of the patient rights advocate for that hospital.

2. **Displayed in emergency room and admission offices.** Each hospital shall also prominently display in its emergency room and in each of its admission offices a list of the rights enumerated in section 1732 and the name of the patient rights advocate, if applicable, for that hospital.

A patient may recover monetary damages for the violation of any rights set forth in section 1732.

§ 1732. **Jurisdiction**

Jurisdiction over any civil action under section 1735 shall be in the District Court, as set forth in Title 4, section 152.

STATEMENT OF FACT

The purpose of this bill is to ensure that all hospital patients in both public and private institutions in the State of Maine are granted equitable and humane treatment at all times and under all circumstances. This principle entails an obligation on the part of all those involved in the care of the patient to recognize and to respect his individuality and his dignity as set forth in the body of this law and to establish a procedure to assure that end.