

MAINE STATE LEGISLATURE

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(New Title)
New Draft of: S. P. 399, L. D. 1192
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1624

S. P. 618

In Senate, May 19, 1981

Reported by the Majority of the Committee on Health and Institutional Services and printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to License Community and Home Health Agencies.

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

Sec. 1. 22 MRSA c. 165 is enacted to read:

CHAPTER 165

COMMUNITY AND HOME HEALTH AGENCIES

§ 801. Intent

The Legislature finds that home health services are not sufficiently or consistently available as a practical matter to many persons in this State and that unwanted and unnecessary institutionalization may result. In addition, citizens who desire and need home health services have a right to know what home health services they might reasonably expect and by what standards the State holds community and home health agencies accountable for quality of in-home care.

The Legislature declares that it is consistent with public policy to sanction a continuum of care, including acute, restorative, rehabilitative, maintenance, preventive and health promotion services where they are needed throughout the State by requiring providers of these services in the home to be licensed. The Legislature further declares that, while it is desirable that competition be encouraged among all public and private provider sectors, the public must be

assured that standards for safe, efficient and effective home health care are met by all providers.

§ 802. Definitions

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

1. Commissioner. "Commissioner" means the Commissioner of Human Services.

2. Community or home health agency. "Community or home health agency" means a voluntary nonprofit, private not-for-profit, or private for-profit agency, organization, facility, institution or association or subdivision thereof, which is engaged in providing professional nursing and any other therapeutic service, such as physical therapy, occupational therapy, speech pathology, home health aides, nurse assistants, medical social work and nutritionist services, either directly or through contractual agreement, in a client's place of residence.

3. Department. "Department" means the Department of Human Services.

§ 803. Standards

1. Development. The commissioner shall develop objective measures for the need for community and home health agencies and services and shall develop standards which address at least the following areas:

- A. General requirements;
- B. Governing authority;
- C. Administration;
- D. Organization and delivery of services;
- E. Continuity and coordination of services;
- F. Clinical records;
- G. Client care statistics;
- H. Financial data; and
- I. Evaluation.

The commissioner shall develop the standards for operations of community and home health agencies, guided by the Medicare conditions of participation and with the advice of the Community and Home Health Advisory Committee, within one year from the date this chapter is enacted. The standards shall be presented to the legislative committee having jurisdiction over health and institutional services to ascertain that the legislative intent of this chapter has been met prior to implementation, and shall then be promulgated according to the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.

2. **Community and Home Health Advisory Committee.** The Community and Home Health Advisory Committee shall consist of 9 members, appointed by the commissioner no later than 30 days after the effective date of this chapter. The committee shall advise the commissioner on the development of standards and other matters relating to the implementation of this chapter. The committee shall be advisory only, and shall come under sunset review by January 1, 1983.

The 9 members shall be appointed as follows: Two designated by the commissioner from within the department; one recommended by the Board of Directors of the Maine Community Health Association; one recommended by the Board of Directors of the Maine Health Care Association; one consumer of health services; 2 members from health agencies, one of whom shall be from a private, for-profit and one of whom shall be from a private not-for-profit agency; and 2 legislators, one representative selected by the Speaker of the House, and one Senator selected by the President of the Senate.

§ 804. Procedure

1. **License required.** No later than July 1, 1983, the commissioner shall assure that no community or home health agency may provide health services to people in their places of residence prior to obtaining a current valid license issued by the State to operate as a community or home health agency.

2. **Application for license.** An application for a license to operate a community or home health agency shall be made on a written form, developed by and obtained from the department, as determined by the commissioner.

3. **Survey.** When a written application for licensure is approved, a survey shall be conducted by a qualified surveyor employed by the department. Thereafter, annual surveys for renewal of license shall be conducted as deemed necessary by the commissioner.

4. **License.** If, on the basis of the initial department survey, the community or home health agency meets the licensure standards without deficiency, the agency shall be issued a license valid for one year from the date of issuance.

5. **Conditional license.** If, on the basis of initial or annual department survey, the community or home health agency is found to have a deficiency with respect to the standards which, in the opinion of the commissioner, does not endanger the public health or safety, a conditional license valid for 6 months may be granted. An unconditional license shall be granted upon submission of evidence of correction of the deficiency satisfactory to the commissioner.

6. **Annual renewal.** Unless sooner suspended or revoked, a license may be renewed annually on, or within 30 days of, the original date of issuance.

7. **Nonassignable; nontransferable.** A license is not assignable or transferable and shall be immediately void if the agency ceases to operate or its ownership changes. In such cases, the governing body or owner shall notify the commissioner.

8. Fees. An application fee shall be assessed each community or home health agency which applies for a license. A sliding fee schedule shall be developed as determined by the commissioner, based on consideration of variations in size and scope of actual or intended operations, except that in no event shall an assessed fee exceed \$150 to any agency either upon initial application or annual renewal thereafter.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82	1982-83
HUMAN SERVICES, DEPARTMENT OF		
Positions	(1)	(2)
Personal Services	\$14,720	\$40,438
All Other	<u>1,875</u>	<u>5,500</u>
Total	\$16,595	\$45,938

STATEMENT OF FACT

The purpose of this new draft is to require the licensure of home health care providers. Hospitals, nursing homes, boarding homes and day care centers are already licensed by the State. The demands for alternatives to institutionalization for acute, chronic, rehabilitative and long-term maintenance care, as well as for health promotion and prevention of disease, are increasing. Community-based home health services are a viable alternative to institutional health services. Licensure of home health agencies organized to provide community or home health services will standardize the role of those providers and will assure their accountability, alongside institutional counterparts.

The appropriation is necessary for the Department of Human Services' staff to carry out the surveys and licensing required by the new draft.