

MAINE STATE LEGISLATURE

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New Draft of: H. P. 1230, L. D. 1455
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1659

H. P. 1545

House of Representatives, May 27, 1981

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

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Establish Rights for Residents of Nursing, Boarding and Foster Homes.

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

22 MRSA c. 1666 is enacted to read:

CHAPTER 1666

PATIENTS' RIGHTS

§ 7921. Intent

It is the intent of the Legislature to establish a mechanism for residents of long-term care facilities in this State to articulate their rights and to be responsible for the protection of those rights.

§ 7922. Definitions

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

1. **Long-term care facility.** "Long-term care facility" means any boarding care facility licensed pursuant to chapters 1663 and 1665, and any skilled nursing or intermediate care facility or unit licensed pursuant to chapter 405.

2. **Resident.** "Resident" means any person who lives in and receives services or care in a long-term care facility.

§ 7923. Residents' Council

1. **Establishment; composition.** Each long-term care facility of 7 or more beds shall inform residents of their right to establish a council. This information shall be given to all residents and a family member or designated representative for those residents on admission and shall be posted prominently in the facility.

The administrator shall assist residents in establishing a residents' council, if the residents choose to establish one. If there is no council, at least once each year residents shall be given the choice to establish one. A majority vote shall prevail.

The council shall draw up bylaws. The council may meet as often as specified in the bylaws, but at least quarterly. No employee or representative of the facility may be a member of the council. Family members may sit on the council, but shall not be members.

2. **Responsibilities.** The council has, but is not limited to, the following responsibilities.

A. To review and make recommendations to strengthen the facility's policies and procedures relating to residents' rights;

B. To establish procedures for informing all residents about their rights;

C. To serve as a forum for obtaining and disseminating information, soliciting and adopting recommendations for facility programming and improvement, and early identification of and recommendations for orderly resolution of residents' problems;

D. To inform the administrator about the opinions and concerns of the residents;

E. To find ways of involving the families of residents in the facility; and

F. To notify the department of Human Services and the Maine Committee on Aging when they are constituted.

Records of council meetings and decisions shall be prepared and disseminated by the council, which may request the assistance of the designated staff member and shall be kept on file in the facility, available at all times to residents and family members or designated representatives.

3. **Assistance.** The administrator shall designate a staff member, not related to the administrator, to assist the residents' council.

§ 7924. Reporting of violations

1. **Alleged violations reported and investigated.** Any person who believes that any of those regulations governing the licensure of long-term care facilities duly promulgated by the Department of Human Services pertaining to residents' rights and conduct of resident care has been violated may report the alleged violation to the protection and advocacy agency designated pursuant to section 3551; the

Maine Committee on Aging pursuant to section 5112, subsection 2; the Office of Advocacy pursuant to Title 34, section 1-A; and any other agency or person whom the Commissioner of Human Services and the Commissioner of Mental Health and Corrections may designate.

2. **Professionals to report.** Any professional who provides health care, social services or mental health services or who administers a long-term care facility or program and who knows of or has reasonable cause to suspect that there has been a violation of any of those regulations promulgated by the Department of Human Services governing the licensure of long-term care facilities pertaining to residents' rights or conduct of resident care shall immediately report or cause a report to be made to an agency or person referred to in subsection 1.

3. **Written report of findings.** Any agency or person investigating a situation pursuant to subsection 1 or 2 shall submit a written report of the findings and results of the investigation to the administrator of the long-term care facility in which the residents' rights allegedly have been violated; to the Commissioner of Human Services; and, if the resident is mentally ill or mentally retarded or has a related condition, to the Commissioner of Mental Health and Corrections.

4. **Immunity from liability.** No professional shall be held liable for any report or action taken pursuant thereto if the professional acted in good faith pursuant to this section.

5. Nothing in this section shall be construed to limit the powers or responsibilities of the nursing home and boarding home ombudsman.

§ 7925. Discharges and transfers

Long-term care facilities which receive public funds may not discharge or transfer any person solely based on a change in their source of payment.

STATEMENT OF FACT

This new draft establishes a mechanism for residents to be involved in the promulgation and maintenance of their civil rights, and any protections afforded under departmental rules, through the creation of a residents' council. It also requires the administrator to designate a staff member, responsible for assisting the residents' council.