

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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or has agreed to receive compensation for, substantially the same libel.

Sec. 3. 14 MRSA §154 is repealed.

Effective September 19, 1985.

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## CHAPTER 291

S.P. 229 - L.D. 591

### AN ACT Concerning Admission Contracts for Nursing Homes.

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

Sec. 1. 22 MRSA §§1826 and 1827 are enacted to read:

§1826. Nursing home admission contracts

All contracts or agreements executed at the time of admission or prior to admission by a resident or legal representative and by any nursing home licensed pursuant to this chapter shall be subject to the requirements of this section.

1. Required contract provisions. Each contract or agreement shall contain the following provisions.

A. A resident may obtain medical care from any qualified institution, agency or person of his choice, as long as that health care provider complies with any applicable laws or rules concerning the provision of care to the resident.

B. A resident may obtain medication from any qualified pharmacy, as long as that pharmacy complies with any applicable state rules and federal regulations and with the reasonable policies of the facility concerning procurement of medication.

2. Contract requirements. Each contract or agreement is subject to the following requirements.

A. No contract or agreement may contain a provision for the discharge of a resident or the transfer of a resident to another facility or to

another room within the same facility which is inconsistent with state law or rule.

B. Each contract or agreement shall contain a complete copy of the department rules establishing residents' rights and shall contain a written acknowledgement that the resident has been informed of those rights. In the case of a mentally retarded or otherwise incompetent individual, the written acknowledgement of those rights shall be made by a representative of the resident. No provision in the contract or agreement may negate, limit or otherwise modify any provision of the residents' rights.

C. No provision of a contract or agreement may require or imply a lesser standard of care or responsibility than is required by law or rule.

D. No provision in a contract or agreement may state or imply a lesser degree of responsibility for the personal property of a resident than is required by law or rule.

E. No contract or agreement may require the resident to sign a waiver of liability statement as a condition of discharge, even if the discharge is against medical advice. This does not prohibit a facility from attempting to obtain a written acknowledgement that the resident has been informed of the potential risk in being discharged against medical advice.

F. Each contract or agreement shall contain a provision which provides for at least 30 days' notice prior to any changes in rates and charges, responsibilities, services to be provided or any other items included in the contract or agreement.

G. No contract or agreement may require the resident to authorize the facility or its staff to manage, hold or otherwise control the income or other assets of a resident.

H. No contract or agreement may contain any provisions which restrict or limit the ability of a resident to apply for and receive Medicaid or which require a specified period of residency prior to applying for Medicaid. The resident may be required to notify the facility when an application for Medicaid has been made. No contract or agreement may require a deposit or other prepayment from Medicaid recipients. No contract or

agreement may refuse to accept retroactive Medicaid benefits.

I. No contract or agreement may contain a provision which provides for the payment of attorneys' fees or any other cost of collecting payments from the resident.

3. Other contract provisions. The contract or agreement may contain any other provisions which do not violate state law or rule or federal law or regulation.

§1827. Photographs of nursing home residents

A nursing home may require an identification photograph of each resident. Photographs may not be used for any other purpose without the permission of the resident for each specific use. The permission must indicate the specific purpose which the pictures are to be used for and, except for the identification photograph, may not be contained in the admission contract or agreement.

Sec. 2. Rules. The Department of Human Services shall revise its rules or promulgate rules to conform to the requirements of this Act.

Effective September 19, 1985.

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## CHAPTER 292

S.P. 530 - L.D. 1425

### AN ACT to Amend the Law Relating to Employment and Dismissal of County Employees.

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

30 MRSA §64-A, sub-§3, as enacted by PL 1981, c. 394, §2, is repealed and the following enacted in its place:

3. Dismissal, suspension, discipline. A county officer or department head may dismiss, suspend or otherwise discipline an employee in his department only for cause, except as provided in paragraph A. Cause for dismissal, suspension or disciplinary ac-