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STATE OF MAINE

ONE HUNDRED AND SEVENTH LEGISLATURE

COMMITTEE ON HEALTH & INSTITUTIONAL SERVICES

January 13, 1977

Rep. John L. Martin, Chairman
Legislative Council
c/o Speaker's Office
State House
Augusta, Maine 04333

Dear Representative Martin:

In accordance with House Paper 1724, which ordered a study of mental retardation services in Maine, we enclose herein the final report of the Health and Institutional Services Committee.

Respectfully submitted,

Walter W. Hichens

Walter W. Hichens
Senate Chairman

Harland C. Goodwin, Jr.

Harland C. Goodwin, Jr.
House Chairman

enclosures

FINAL REPORT OF THE
JOINT STANDING COMMITTEE ON HEALTH AND INSTITUTIONAL SERVICES
OF THE 107TH LEGISLATURE
ON MENTAL RETARDATION SERVICES (H.P. 1724)

Senate Members

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Edwin H. Greeley
Elmer F. Berry, Jr.

House Members

Harland C. Goodwin, Jr., Co-chairman
Thomas R. LaPointe
Leatrice Morin
William J. Hennessey
Peter J. Curran
Wayne L. Kennedy
Bonnie D. Post
Ralph M. Lovell
Arthur M. Sprowl
Dorothy B. Laverty

Legislative Assistant

Diana C. Scully

January 13, 1977

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I. INTRODUCTION: OBJECTIVES OF THE STUDY

During its Regular Session, the 107th Legislature ordered the Joint Standing Committee on Health and Institutional Services to conduct a study of mental retardation services in Maine.^{1/} Representative Harland Goodwin sponsored the Order after the Legislature failed to authorize a bond issue for the construction of a comprehensive regional facility in southern Maine for severely and profoundly retarded children.

The objectives of the study, as stated in the Order, include the following:

- to establish priorities in the area of mental retardation services;
- to designate target groups having the greatest need for these services; and
- to recommend the most effective and efficient means of service delivery.

II. COMMITTEE PROCEDURES

A. Questionnaires

The Committee's first step was to generate an extensive list of questions relating to:

- the identification of retarded persons in Maine;
- the role which various State, private and Federal agencies and groups play in the provision of mental retardation services;

^{1/}

H.P. 1724, the Legislative Order calling for the study, is included in Appendix 1 of this report, (p. 19)

- the impact of these services on Maine's mentally retarded citizens; and
- changes required to improve existing services and the delivery of these services.

Next, the Committee used this list to develop a questionnaire for each of several agencies involved in the provision of mental retardation services. Of the more than 300 individuals who received a questionnaire during the fall of 1975, almost 100 responded.^{2/} The Committee was very impressed with the effort and thought that went into the responses, and wishes to extend its thanks to all those who completed the questionnaire.

**B. Subcommittee
Visits**

After the Committee concluded the questionnaire phase of its study, subcommittees were formed to travel to various types of facilities for mentally retarded persons. Committee members making one or more site visits included Senator Walter Hichens and Representatives Harland Goodwin, William Hennessey, Dorothy Laverty and Bonnie Post.

During the months of December 1975, and January 1976,^{3/} subcommittees made visits throughout the State to residential facilities (including the Pineland Center, the Levinson Center, the Aroostook Residential Center and many boarding, nursing and foster homes) and to day activity centers and sheltered workshops. During most of these trips subcommittee members also spoke with parents of and other individuals concerned about mentally retarded persons.

^{2/} Appendix 2 contains a listing of the agencies and groups which received and responded to questionnaires. (P. 21)

^{3/} A subcommittee also made some site visits in November, 1976.

C. Interim
Recommendations:

During the First Special Session of the 107th Legislature the Committee made several interim recommendations relating to mental retardation services.^{4/} As it developed these proposals, the Committee worked extensively with various individuals, including:

- the Commissioner of the Department of Mental Health and Corrections,
- the Commissioner and a Deputy Commissioner of the Department of Human Services (DHS),
- the Director of the Bureau of Mental Retardation (BMR),
- the Superintendents of Pineland and the Levinson Center,
- several members of the BMR's regional aftercare services staff,
- a few individuals involved in privately-run programs,
- the State Fire Marshal,
- the Director of the Division of Hospital Services, DHS ,
and
- a few members of the Attorney General's Office.

The 107th Legislature passed every legislative proposal related to mental retardation services which was sponsored by the Committee pursuant to the Order.

D. Recent
Activities:

Since the enactment of its interim recommendations, the Committee has had further discussions with many of the individuals mentioned above and has made a few more visits

^{4/} See Section IV of this report. (p.12)

to community-based programs for mentally retarded individuals. As a result of these activities, the Committee has decided to make additional recommendations to the 108th Legislature.^{5/}

III. COMMITTEE'S FINDINGS

Among the several hundred people who provided input into the Committee's study, there appears to have been considerable agreement on many matters. The following are some of the more pertinent findings of the Committee:

A. Medical Needs

1. Many mentally retarded persons need dental care.

The Committee learned that there is a statistically significant correlation between mental retardation and high incidence of dental problems, and that many mentally retarded individuals have not received badly needed dental care. Many parents of retarded children told the Committee that dentists are reluctant to treat individuals who have severe dental problems. Many people indicated that often retarded individuals have not received dental care, because of their inability to pay for it.

There is an out-patient dental clinic at the Pineland Center, which provides free services to retarded persons. However, the State has not yet taken steps to meet the dental needs of retarded individuals, throughout the State.

Last April, the Maine Supreme Court heard the case Brooks v. Maine, in which the Commissioner of

^{5/} See Section V of this report. (p. 13)

the Department of Human Services (DHS) appealed a Superior Court decision which had found a child eligible for orthodontic treatment under Medicaid. The Supreme Court held that expressed federal policy seems to prevent the Commissioner from interpreting State rules in such a way as to deny reasonable treatment necessary to maintain the dental health of a child eligible for Medicaid. The DHS currently is in the process of establishing guidelines for the determination of what constitutes reasonable treatment. Meanwhile, the State has paid for orthodontia services for only the Brooks child. Roughly 3 dozen additional children are waiting to hear whether the State will provide them with these services. The Committee urges the DHS to complete these guidelines, forthwith. Many of the children who could benefit from orthodontia services under Medicaid are mentally retarded.

2. Services in the areas of early identification and treatment of mental retardation need to be increased. The Committee heard, again with great frequency and from a variety of sources, that the need for early identification and treatment far exceeds the availability of services. An explanation offered by several people for the rough state of the art of early intervention, is that physicians lack the training and skills required to properly diagnose and treat various types of developmental disabilities, including mental retardation.

The State participates in a few federal programs which relate, at least in part, to the prevention and early identification of developmental disabilities. These programs include the Early and Periodic Screening, Testing and Diagnosis Program and the Genetic Disease Program. However, many people suggest, and the Committee agrees, that the State needs to make greater efforts in the areas of early diagnosis and treatment. Services for developmentally disabled pre-school children are especially needed.

B. Service Needs:

1. A variety of residential facilities for retarded persons needs to be developed. The Committee was told by numerous service providers working for both public and private agencies, that certain State policies have hindered the development of a "continuum of residential services" for mentally retarded persons. These policies seem to have discouraged the development of small, homelike facilities, such as non-profit group homes, and to have promoted the growth of the large, proprietary facilities, often described as "mini-institutions".

For example, under the Department of Human Services' rate-setting and reimbursement policies, boarding care facilities with 6 beds or under have received payment on a flat rate basis, while larger facilities have received reimbursements based on their operating costs. A result of these policies: the

larger the facility, the more public money per resident the home has received.

Other policies which have discouraged the development of small, homelike facilities relate to physical plant. For example, a lot of expense is involved in meeting the seemingly stringent fire, safety and sanitation requirements for licensure. These requirements, many of which are based on rules of the Department of Human Services, do not always enable a facility to have a homelike atmosphere. The Committee realizes that a safe physical plant is crucial. However, it is clear that far greater flexibility is needed in the enforcement of requirements for licensure.

The Committee learned that in addition to the various State policies described above, local zoning ordinances have often presented a stumbling block to the establishment of community-based residential facilities.

Finally, the Committee learned that insurance companies have been reluctant to provide property and casualty insurance to the operators of these facilities.

2. More respite care services are needed. This need was pointed to not only by service providers, but also, very emphatically, by parents of retarded persons. It was suggested that more parents might be willing and able to take the responsibility of having their retarded children at home, if they knew that

someone else would care for these children at least periodically. In addition, it was suggested that the mentally retarded persons would also benefit from temporary breaks from their families.

3. Day activity and sheltered workshop opportunities need to be expanded. The Committee was informed on several occasions that more day programs for mentally retarded persons are needed, especially during the summer months. The Committee heard that children who have made progress in programs during the school year, often regress during the summer when there are no educational programs for them.

With respect to funding, the Committee learned that it is difficult to pay for day programs for mentally retarded individuals over the age of 20, because public school tuition is available only for persons between the ages of 5 and 21. The Committee is concerned that the year-to-year funding of such programs, which is highly unstable, might have an adverse effect on the morale of the staff and effectiveness of the programs.

4. Protective and supportive services for mentally retarded adults who live in privately-operated residential facilities are not adequate. The Committee heard several times that there are adults in boarding and nursing homes who are not capable of making decisions for themselves and who have no responsible persons to advocate for them. In particular, there was concern about the misuse of clients' funds.

In the spring of 1973, the 105th Legislature passed a law which required the Department of Human Services to provide "protective" and "supportive" services for "incapacitated" adults. There was no appropriation for carrying out the law. Presently, the DHS has only 6 employees who provide direct protective services for adults and one manager who works in the Bureau of Resource Development. The staffing situation would be vastly improved if the Maine Human Services Council recommendation to provide \$825,000 for adult services under the Title XX Program is carried out.

The Bureau of Mental Retardation has coordinated the activities of regional aftercare workers (funded by Title XX) who have spent the greatest portion of their time advocating for services for mentally retarded persons who have left Pineland and who reside in boarding, nursing, and foster homes. Some of these workers have felt that they lack clout, as they attempt to persuade the operators of residential facilities to cooperate in the provision of various services to mentally retarded individuals.

In sum, the DHS has had the statutory mandate to provide services to incapacitated adults, but it has not had the funding and staff to do this. The BMR has had the staff to provide services to mentally retarded adults, but because the workers are not technically State employees, the BMR has lacked the clout required to effectively advocate for such services.

C. Administrative
Problems:

1. The various components within the system of mental retardation services often mistrust and, therefore, do not cooperate with one another. The Com-

mittee heard about and observed numerous examples of the lack of cooperation, including the following:

- The staffs of Pineland Center, the regional after-care offices, and the central office of the Bureau of Mental Retardation, often seem to have divergent ideas about how to provide "appropriate" care for the mentally retarded individuals under their supervision.
- Some associations for retarded citizens do not like to deal with the BMR, because they are afraid "the State" will try to tell them how to do things. In addition, the Maine Association for Retarded Citizens and the BMR do not appear to work well with each other.
- The BMR, the State Fire Marshal, and operators of various boarding care facilities all seem to disagree with the Division of Hospital Services (Department of Human Services) and with one another about what constitutes an "appropriate" setting for mentally retarded persons who reside in boarding care facilities.

2. The planning and coordination of services for retarded people need to be vastly improved. The Committee discovered that the effects of inadequate planning and coordination are felt by parents who

seek services for mentally retarded children, but who feel they are just "getting the runaround" by various agencies.

Many people suggested that if mental retardation services were better planned and coordinated, there might be fewer gaps (e.g., as described in sections A and B) and overlaps (e.g., employees of 2 or more agencies visiting the same clients) in these services.

D. Groups
Needing
Services:

Certain groups of retarded persons stand out as being in particular need of services. The categories of mentally retarded people most commonly cited as receiving inadequate services include:

- children under the age of 5,
- children between the ages of 5 and 20 during the summer months,
- adults over the age of 20, and
- offenders.

E. Public
Education:

Public education is needed. Sadly, the public's awareness and understanding of mentally retarded citizens is minimal. The Committee heard this point again and again. Many people suggested using the television as one means of informing the public about retarded people. Some suggested that the BMR and the Maine Association for Retarded Citizens should take more initiative and play a key role in educating the public.

IV. COMMITTEE'S INTERIM RECOMMENDATIONS

As stated previously, every legislative proposal made by the Committee was passed by the 107th Legislature during its First Special Session. The following is a brief summary of these laws.

A. Fire Safety Inspections:

In response to its finding that fire and safety regulations for licensure have often appeared to be unnecessarily stringent, the Committee proposed 22 MRSA § 7904, sub-§3. This section provided that the Department of Human Services must permit any boarding home with 7-15 beds which is operated for retarded persons to comply with less stringent fire and safety standards if certain conditions are met.

B. Cost Reimbursements:

Based on its finding that the rate-setting and reimbursement policies of the DHS have discouraged the development of smaller residential facilities, the Committee recommended 22 MRSA § 7906. This statute directs the DHS to permit small boarding homes for 6 or less mentally retarded persons to receive reasonable cost reimbursements, instead of flat-rate payments.

C. Protective and Supportive Services:

The Committee's concern about gaps in services for mentally retarded individuals was reflected in its proposal (34 MRSA § 2067) to give the BMR the authority to respond to complaints and requests for assistance concerning "incapacitated persons" (i.e., persons who are unable to make responsible decisions) who are mentally retarded. Prior to the enactment of this proposal only the DHS was authorized (and, in fact, required) to provide protective and supportive

services for incapacitated adults, including mentally retarded adults. Now the BMR is also authorized (but not required) to initiate such services for incapacitated adults who are mentally retarded.

D. Sales Tax Exemption:

A law to exempt community-based mental retardation facilities from the sales tax (36 MRSA § 1760, sub-§28), was proposed by the Committee as one way of removing barriers to the development of day activity and sheltered workshop programs.

E. Personal Funds:

In response to its concern about the reported misuse of the personal funds of mentally retarded individuals, the Committee proposed the provisions now contained in 22 MRSA §§ 1824 and 7905. These statutes spell out in detail the conditions under which operators of nursing and boarding homes are permitted to handle the personal funds of the mentally retarded residents.

F. Improvement Fund:

Finally, the Committee proposed a bill which clarified the use of the Mental Health Program Improvement Fund (22 MRSA § 3172-A).

V. COMMITTEE'S FINAL RECOMMENDATIONS

The Committee's final recommendations to the 108th Legislature are based on the findings summarized in Section III of this report.

A. Dental Services:

A study of the dental needs of and availability of services for Maine's mentally retarded citizens should be conducted. The Committee recommends that the Office of Dental Health, Department of Human Services, examine the scope and magnitude of dental needs of mentally retarded persons and explore

various mechanisms for providing and funding an increased level of services throughout the State. The Committee recommends, further, that in carrying out this study, the office should consider reports already completed by other groups studying the matter.

B. Early
Intervention:

Physicians should receive additional training in the areas of identifying and treating various types of developmental disabilities. The Committee will propose legislation to require the Board of Registration in Medicine to offer programs of medical education in the area of developmental disabilities.^{6/} The Committee's assumption is that with increased knowledge in this area, physicians will be better able to diagnose mental retardation and related conditions, and children with these conditions will receive treatment at much earlier ages.

The State should take a more active role in programs of prevention and early intervention in the area of developmental disabilities. The Committee recommends that the State should, where possible, increase its participation in aspects of various federally funded programs which focus on the prevention and early diagnosis and treatment of developmental disabilities. Such programs include the Early and Periodic Screening, Testing and Diagnosis Program and the Genetic Disease program, both of which are administered at the State level by the Department of Human Services.

6/ The Committee's bill is included as Appendix 3. (p.22)

C. Residential
Facilities:

In addition to the recommendations passed by the 107th Legislature relating to residential facilities (see Section IV, A and B, of this report), the Committee has some further proposals for the 108th Legislature. The Committee's intent with respect to all of its proposals in this area has been to encourage the development of small, homelike residential facilities for Maine's mentally retarded citizens.

Insurance companies should be prohibited from discriminating against operators of residential facilities for the mentally retarded. The Committee will sponsor legislation which requires insurance companies to deal fairly with applicants who seek coverage related to the operations of boarding homes.^{7/}

The Department of Human Services should not institute a system of flat-rate payments to boarding and nursing homes. The Committee will recommend legislation to prevent the DHS from carrying out certain provisions in the "Principles of Reimbursement", as proposed on July 30, 1976, and as amended through November 8, 1976.^{8/} The Committee disagrees with the provisions under which the DHS would establish payment rates for nursing and boarding homes, based on an average of operating costs attributable to a number of such homes grouped together according to various criteria. The Committee believes that no system of payments should provide that nursing and boarding homes of varying quality receive equal payments.

^{7/} The Committee's bill is included as Appendix 4. (p.24)

^{8/} The Committee's bill is included as Appendix 5. (p.25)

Increased flexibility should be built into the licensing requirements and procedures for boarding homes. The Committee recommends that the Department of Human Services evaluate and , in some instances, reformulate its rules relating to the licensure of boarding homes. In the evaluation of its rules, the Department should consider, among other factors, the number and type of persons served, the level of care provided, and the number of persons employed by the facility. In addition, in carrying out its evaluation the Department should consult with agencies or groups which deal with persons served by boarding homes, including the Department of Mental Health and Corrections and the State Fire Marshal's Office.

D. Day
Programs:

There should be a study of State statutes, and resulting rules and policies, in the area of special education. The Committee will sponsor an Order to establish a Joint Select Committee of the Legislature to study the special education laws. This is an area that has not yet been reviewed by the Legislature. The Committee believes that the effective delivery of services in this area is critical, not only, developmentally, to mentally retarded and other disabled children, but also, fiscally, to the State which is already paying close to \$10 million for these services. ^{9/}

^{9/} The Committee's Order is included as Appendix 6. (p.27)

E. Public
Education

The public should be made more aware of the needs and nature of mentally retarded individuals. The Committee recommends that the Department of Mental Health and Corrections take the initiative to better inform the public about mentally retarded individuals. In particular, the Department should work with local governments to remove barriers (e.g., discriminatory zoning ordinances) to the establishment and operation of residential facilities for handicapped persons, including mentally retarded persons.

F. Southern
Maine
Facility

A comprehensive facility for children in Southern Maine should not be constructed. H.P. 1724, the Legislative Order which required the Committee to conduct this study of mental retardation services, was passed as a response to the 107th Legislature's failure to authorize a bond issue for the construction of a comprehensive regional facility in Southern Maine for severely and profoundly retarded children. The Committee recommends that no such facility be constructed. The reason: during its study none of the input from the many agencies, groups, and individuals indicated to the Committee that there is a need anywhere in the State (including in the immediate area of the Pineland Center) for a new, large, State-operated facility for mentally retarded persons.

G. Unified
Service
Approach

Individuals with similar needs should receive similar treatment and consideration. The Committee realizes that some of its legislative proposals could have dealt with certain categories of people, in addition to mentally retarded individuals. For example, the statutes relating to the fire safety inspections of and cost reimbursements to privately operated residential facilities were written

to affect only facilities with mentally retarded residents. A decision was made to proceed in this manner, because the Committee felt that it should make proposals related specifically to the mandates of the study order (i.e., to study and make recommendations about mental retardation services).

The Committee recommends that to the extent possible, future legislative proposals in certain human service areas (including boarding and nursing home services, and protective and supportive services) apply not only to one category of persons, but to all types of persons who would benefit from such proposals.

In House _____

~~Ordered~~

WHEREAS, the Legislature's unwillingness to authorize a bond issue for acquisition and construction of care and treatment facilities for the severely and profoundly mentally handicapped has raised questions pertaining to the types and costs of facilities and services which are appropriate for various types of mentally retarded individuals; and

WHEREAS, such questions still lack definitive answers; and

WHEREAS, the study conducted in accordance with S.P. 641 during the 106th Legislature by the Joint Standing Committee on Health and Institutional Services focused only on issues arising from the policy of deinstitutionalization and neglected issues relevant to mentally retarded individuals who have never resided in state institutions; and

WHEREAS, due to severe time constraints in conducting this study, that committee was not able to base its recommendations on sufficient data, consider input from persons other than representatives of the Bureau of Mental Retardation, offer any priority of programs essential to the effective, efficient delivery of services to the mentally retarded population which have the greatest need for services; and

WHEREAS, the Joint Standing Committee on Health and Institutional Services recognizes the importance of priority services and designating target groups for the mentally retarded population in this State, including individuals residing not only in state institutions but also in community facilities and in their homes; and

WHEREAS, failure to consider and respond to such issues raises questions regarding the effectiveness and efficiency of the delivery

Name:

Town:

D O E R.

system of services to the mentally retarded; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized, through the Joint Standing Committee on Health and Institutional Services of the 107th Legislature to gather and analyze data, determine a priority of services to the mentally retarded, designate target groups having the greatest need for such services and recommend the most effective and efficient means of service delivery; and be it further

ORDERED, that in conducting its study the committee consider input not only from departmental officials but also from representatives of the mid-management and line levels of both the Department of Mental Health and Corrections and the Department of Health and Welfare, from administrators and staff of residential facilities and other programs based in the community, from families of the mentally retarded and from mentally retarded individuals themselves; and be it further

ORDERED, that the Council report the results of its findings together with any proposed recommendations and necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, Upon passage in concurrence, that suitable copies of this order be transmitted forthwith to said agencies as notice of this directive.

HP 172A

(Goodwin)

Name:

Town: South Berwick

Edward Goodwin

HOUSE OF REPRESENTATIVES
READ AND PASSED
JUN 17 1975

Edward Goodwin
CLERK

SENT UP FOR CONCURRENCE

AGENCIES AND GROUPS RECEIVING AND RESPONDING
TO COMMITTEE'S QUESTIONNAIRE

<u>Agency or Group</u>	<u># and Type of Persons Receiving Questionnaire</u>	<u># of Persons Respond- ing to Questionnaire</u>
Public Agencies: Dept. of Mental Health & Corrections		
Bur. of Mental Retardation	1 director	1
Regional Offices	50 ^{1/2}	14
Pineland Center	30 ^{2/3}	14
Levinson Center	1 director	1
Aroostook Residential Center	1 director	1
Development Disabilities Council		
a. 1	7 members	1
Dept. of Human Services		
Bur. of Social Welfare	1 director	1
Bur. of Rehabilitation	1 director	1
Bur. of Resource Development	1 director	1
Bur. of Health		
Div. of Hospital Services	1 deputy commissioner	1
Dept. of Educational & Cultural Services	1 commissioner	1
Dept. of Manpower Affairs		
Bur. of Labor	1 director	1
Dept. of Public Safety		
Fire Marshall's Office	1 director	1
Social Security Administration	1 director	1
Private Agencies: Nursing, Boarding, & Foster Homes	150 (approx.) operators	27
Day Activity Centers & Sheltered Workshops	38 directors	12
Associations for Retarded Citizens and Parents	32 directors & parents	14
Community Mental Health Centers	8 directors	4
Medical Profession General Hospitals and the Maine Medical Association	7 directors	1
TOTAL:	333	98

1/

All regional administrators, social work supervisors, community social workers, traveling trainers, and group advocates received questionnaires.

2/

The superintendent, directors of the various services and programs, and several direct care staff received questionnaires.

DRAFT

AN ACT To Require The Board Of Registration In Medicine To Provide For An Educational Program In Developmental Disabilities.

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

32 MRSA § 3269, sub-§ 10, is amended to read:

'10. Powers. The power to conduct and operate or contract with other agencies, persons, firms or associations for the conduct and operation of programs of medical education and to disburse funds accumulated through the receipt of licensure fees for this purpose, provided that no such funds shall be disbursed for this purpose for out-of-state travel, meals or lodging for any physician being educated under this program. No less than \$10,000 of these funds shall be disbursed each fiscal year for educational programs, the purpose of which shall be to improve the skills of physicians in the diagnosis and treatment of conditions caused by and related to developmental disabilities. The power to conduct and operate or contract with other agencies or nonprofit organizations for the conduct and operation of a program of financial assistance to medical students indicating an intent to engage in family practice in rural Maine, under which program said students may be provided with interest-free grants or interest-bearing loans in an amount not to exceed \$5,000 per student per year on such terms and conditions as the board may determine.'

Fiscal Note

The \$10,000 annual cost of providing these programs is to be covered by fees collected by the Board of Registration in Medicine. Over the last several years the Board has been able to maintain a healthy fiscal year-end balance (e.g., \$166,485 in FY 74; \$160,000 in FY 76). The cost of the programs should pose no burden to the Board.

Statement of Fact

The purpose of this Act is to improve the skills of Maine physicians in the identification and treatment of various types of developmental disabilities. The Act requires the Board of Registration in medicine to spend \$10,000 per year to provide for programs of medical education in the area of developmental disabilities.

The need for this Act is supported by the findings of the Committee on Health and Institutional Services of the 107th Legislature, pursuant to H.P. 1724, the study of mental retardation services.

AN ACT To Prohibit Insurance Discrimination Against Operators
Of Boarding Care Facilities.

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

24-A MRSA § 2159-B, is enacted to read:

§ 2159-B. Insurance discrimination against operators of boarding
care facilities prohibited.

No insurance company authorized to transact business in this
State shall cancel, reduce liability limits of, increase the pre-
miums of, or refuse to issue or to renew any casualty or property
insurance policy that such company sells, for the sole reason that
the insured or the applicant for insurance, including an individual
or a corporation, seeks coverage directly related to the operation
of a boarding care facility, as defined in Title 22, section 7901.
For the purposes of this section, the operation of such a facility
shall include, but not be limited to any activities within and out-
side of the facility which are supervised by the insured or the
applicant, or his agent, and any transportation provided by the
insured or the applicant, or his agent, to the residents of the
facility.

STATEMENT OF FACT

In carrying out the mandates of H.P. 1724, the Committee on Health and Institutional Services of the 107th Legislature learned that the operators of some boarding care facilities for mentally retarded individuals have been having difficulties in obtaining adequate insurance coverage. In many instances insurance companies appear to be reluctant to provide casualty and property insurance for any individual or organization working with handicapped individuals.

The purpose of this Act is to require insurers to sell adequate insurance to the operators of boarding care facilities.

AN ACT to Require the Department of Human Services to Make Reimbursements to Nursing Homes and Most Boarding Homes on the Basis of Reasonable Operating Costs.

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

'Sec. 1. 22 MRSA § 1708, sub-§ 2, as enacted by P.L. 1975, c.365, § 1, is amended to read:

2. Compensation for nursing homes. A nursing home, as defined under section 1812-A, or any portion of a hospital or institution operated as a nursing home, when the State is liable for payment for care, shall be reimbursed at a rate established by the Department of ~~Health-and-Welfare~~ Human Services pursuant to this subsection. ~~The department shall not establish a so-called "flat-rate."~~ The department shall establish for each nursing home a payment rate or ~~payment~~ rates relating to various types of care provided ~~in~~ the particular nursing home. Such rate or rates shall be based on the operating costs attributable to ~~each~~ the particular nursing home as determined by such accounting and auditing standards and procedures as the department may establish. The department shall not establish a so-called "flat-rate" or any payment rates which are based on an average of operating costs attributable to a number of nursing homes which have been grouped together according to any criteria. The provisions of this subsection shall apply to all funds, including federal funds, paid by any agency of the State to a nursing home for patient care. The provisions of this subsection shall apply, notwithstanding any other provisions of law.'

Sec. 2. 22 MRSA §7907, is enacted to read:

§7907. Reimbursements to large boarding care facilities.

When the State is liable for payment for care provided by a boarding care facility, the facility shall be reimbursed at a rate established by the department. The department shall establish for each boarding care facility with a capacity of more than 6 beds and for each facility with a capacity of 6 or fewer beds which receives reimbursements other than on a flat-rate basis as specified in section 7906, a payment rate or rates relating to various types of care provided in the particular boarding care facility. Such rate or rates shall be based on the operating costs attributable to the particular boarding care facility, as determined by such accounting and auditing standards and procedures as the department may establish. The department shall not establish any payment rates which are based on an average of operating costs attributable to a number of boarding care facilities which have been grouped together according to any criteria. The provisions of this subsection shall apply to all funds, including federal funds, paid by any agency of the State to a boarding care facility for resident care. The provisions of this section shall apply, notwithstanding any other provisions of the law.

STATEMENT OF FACT

This Act has been proposed by the Committee on Health and Institutional Services of the 107th Legislature, as a result of its study of mental retardation services (H.P. 1724).

The Act prohibits the Department of Human Services from establishing payment rates for nursing homes and most boarding homes which would be based on the average operating costs of a number of homes grouped together according to various criteria. In effect, the Act requires the Department to continue with its system of reimbursements based on the reasonable costs of operating individual homes.

WHEREAS, the State statutes requiring all administrative units which operate schools to provide equal educational opportunities for exceptional children have been in effect since 1973; and

WHEREAS, the Legislature is aware of widespread concern about the absence of educational opportunities for exceptional children of pre-school age and for exceptional children of school age during the summer months; and

WHEREAS, the Legislature has not yet reviewed the implementation and impact of these statutes, and is concerned about the effect of some of the rules of the Department of Education and Cultural Services on the delivery of special education services; and

WHEREAS, the cost of providing special education for these children exceeds \$10 million per year, 90% of which is borne by the State; and

WHEREAS, the Legislature wishes to ensure that special education is being effectively and efficiently provided; and

WHEREAS, special education is vitally important to the welfare of exceptional children; now, therefore, be it

ORDERED, that a Joint Select Committee of the Legislature shall be created to review the special education statutes, the rules, policies and practices related to these statutes, and the costs involved in carrying out the mandates of these statutes; and be it further

ORDERED, that the Committee shall consist of at least 3 members of the Joint Standing Committee on Education, 3 members of the Joint Standing Committee on Health and Institutional

Services, and 3 members-at-large of the 108th Legislature;
and be it further

ORDERED, that in carrying out its study the Committee shall include a review of the problem of inadequate services for exceptional children of pre-school age and for exceptional children of school age during the summer months; and be it further

ORDERED, that the Committee shall report its findings and recommendations, along with any proposed legislation, to the second regular session of the 108th Legislature.