

MAINE STATE LEGISLATURE

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DEPARTMENT OF HEALTH AND WELFARE
State House, Augusta, Maine

Date May 25, 1945

To Mr. Face
From Mr. Folsom
Subject Licensing of Boarding Homes for the Aged.

Question 1. "Do the sections of chapter 195 relating to boarding homes for the aged, blind, or other persons sixteen years of age or over, require that persons who do not advertise or hold themselves out as conducting and maintaining a boarding house or home for the aged, blind, or other persons sixteen years of age or over, must have a written license from the department?"

The term "boarding home or house" is defined as, "a house or other place maintained by an association, organization or individual partly or wholly for the purpose of boarding and caring for" certain persons.

I am of the opinion that a boarding house or home maintained partly or wholly for the purpose of boarding or caring for the aged or blind does not include homes wherein an aged or blind person is boarded or cared for by a relative or friend or for the purpose of performing a charitable act. The question is, does the person maintaining the home hold out or advertise that he is maintaining a home for the aged or blind or other person as a business and is ready at all times to take such persons to board and care for without discrimination. If he does not he is not required to have a license under this act.

If any other interpretation of the law was to be made, it would impose an unnecessary and wholly unjustified burden upon the person who is performing the service on the basis of relationship or accommodation.

Question 2. "In your opinion would it be necessary for the operator of a boarding house conducted for persons sixteen years of age or over who could not be reasonably considered as being either defective, dependent or delinquent, to have a written license from the department?"

In referring to persons sixteen years of age or over it was the intent of the legislature to confine the licensing of boarding homes for this age group to defectives, dependents and delinquents. It was not intended that the provisions of the act should apply to every boarding home or boarding house where persons over sixteen years of age are boarded. If this were so it would mean that practically every boarding house in the state would be required to have a license under the provisions of the act.

Notes of Folsom

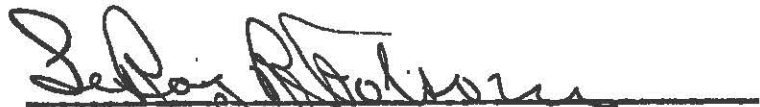
May 25, 1945

It is my opinion that a home which is not maintained for the express purpose of boarding the aged, blind or defectives, dependents, and delinquents sixteen or more years of age will not be required to obtain a license under the provisions of this act. In other words, the phrase, "other persons sixteen or more years of age", is to be interpreted to mean, "and such other persons sixteen or more years of age as are defective, dependent or delinquent."

In general, I am of the opinion that it is not necessary to license a home under the provisions of this act if the persons boarding therein are not aged, blind or other persons over sixteen years of age who are defective, delinquent or dependent.

Question 3. "Will it be necessary for persons conducting and maintaining a boarding house or home for the aged, blind and other persons sixteen years of age or over to obtain not only a license from the department under this chapter, but also a lodging house and eating place license from the Bureau of Health, provided more than two rooms in the boarding house are rented to guests?"

It is my opinion that homes required to be licensed under the foregoing interpretation will also be required to have a license from the Bureau of Health provided that more than two rooms in the boarding house are occupied by the guests.



LEROY R. FOLSOM
Assistant Attorney General

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