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Maine Committee on Aging Inspection of Boarding Homes
Boarding Homes: Inspection

22 M.R.S.A. § 5112 (2)

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March 27, 1978

TO: Trish Riley, Staff Director, Maine Committee On Aging
FROM: Thomas E. Geyer, Assistant Attorney General
SUBJECT: Interpretation of 22 M.R.S.A. § 5112 (2)

FACTS:

Pursuant to 22 M.R.S.A. § 5112(2), the Maine Committee On Aging and its staff, hereinafter referred to as the Committee, are authorized to enter onto the premises of boarding care facilities and nursing homes to investigate complaints which the Committee receives regarding such facilities.

QUESTION:

Can the Maine Committee On Aging enter onto the premises of boarding care facilities and nursing homes on a regular basis in order to generally inspect the premises and interview residents, in the absence of specific complaints?

ANSWER:

No. The Maine Committee On Aging cannot enter onto the premises of boarding care facilities and nursing homes on a regular basis in order to generally inspect the premises and interview residents, in the absence of specific complaints.

REASONS:

22 M.R.S.A. § 5112(2) authorizes the Committee to enter onto the premises of boarding care facilities licensed pursuant to 22 M.R.S.A. § 7801 and nursing home facilities licensed pursuant to 22 M.R.S.A. § 1817, in order to investigate complaints.

Boarding care facilities are regulated by the Department of Human Services pursuant to 22 M.R.S.A. § 7801 et seq. (subtitle 6). Section 7804 of subtitle 6 states in part that: "The department shall have the right of entry to any facility licensed under this subtitle, at any reasonable time in order to determine the state of compliance by the facility to applicable laws and rules..." The department has delegated the administrative responsibility for general inspections of these facilities to the Division of Hospital Services. Nursing homes

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are regulated by the Department of Human Services pursuant to 22 M.R.S.A. §1811 et seq. (Chapter 405). Section 1820-A of Chapter 405 states in part that: "The department and any duly designated officer or employee thereof shall have the right to enter upon and into the premises of any nursing home licensed pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules and regulations in force pursuant thereto..." The department has designated the Division of Hospital Services as the agency within the department responsible for general inspections of nursing home facilities.

For the foregoing reasons, unless the department delegates to the Committee the authority to inspect boarding and nursing homes generally, or unless 22 M.R.S.A. §5112(2) is amended to expand the Committee's authority, the Committee is limited to investigating specific complaints.

TEG:bjw