

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 901

H. P. 755

House of Representatives, March 10, 1977

On Motion of Mr. Goodwin of South Berwick referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Martin of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Establish the Legal Rights of Hospital Patients.

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

Sec. 1. 4 MRSA § 152, 1st ¶, as last amended by PL 1975, c. 770, § 11, is further amended by adding at the end a new sentence to read:

The District Court shall possess civil jurisdiction over actions for damages authorized by Title 22, section 1735.

Sec. 2. 22 MRSA c. 402, is enacted to read:

CHAPTER 402

RIGHTS OF HOSPITAL PATIENTS

§ 1731. Definition

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

1. Hospital. "Hospital" shall mean any institution, place, building or agency in which any accommodation is maintained, furnished or offered for the hospitalization of the sick or injured.

2. Patient. "Patient" shall mean any person who is admitted to a hospital for treatment for actual or potential sickness or injury. The term "patient" includes both inpatients and outpatients.

3. Patient rights advocate. "Patient rights advocate" shall mean an individual, other than a doctor or hospital administrator, whose primary re-

sponsibility is to assist the patient in learning about, protecting and asserting his rights under the provisions of this chapter.

§ 1732. Enumeration of rights

A patient shall have the following rights :

1. The right to informed participation in all decisions involving his health care program ;

2. The right to complete and accurate information concerning medical care and procedures, including a clear, concise explanation of all proposed procedures in layman's terms, including the possibilities of any risk of mortality or serious side effects, problems related to recuperation and probability of success ;

3. The right to inspect all the information contained in his medical record while in the hospital and to examine the record upon request ;

4. The right to know the identity and professional status of all those providing service, including the right of the patient to know the physician responsible for his care ;

5. The right to discuss his condition with a consultant specialist at his own request and at his own expense ;

6. The right to prompt attention, especially in an emergency situation ;

7. The right to clear, complete and accurate evaluation of his condition and prognosis without treatment before he is asked to consent to any test or procedure, unless he is mentally or physically unable to comprehend the evaluation and prognosis, or unless the test or procedure is necessary to provide emergency medical treatment for him ;

8. The right not to be subjected to any procedure without his voluntary, competent and understanding consent unless he is mentally or physically unable to consent, or unless the procedure is necessary to provide emergency medical treatment for him. The specifics of consent shall be set out in a written consent form, signed by the patient ;

9. The right to refuse any particular drug, test, procedure or treatment ;

10. The right not to have any test or procedure, designed for educational purposes rather than his direct personal benefit, performed on him ;

11. The right to both personal and informational privacy with respect to : The hospital staff, other doctors, residents, interns and medical students, researchers, nurses, other hospital personnel and other patients ;

12. The right of access to people outside the health care facility by means of visitors and telephone. Parents may stay with their children and relatives may stay with terminally ill patients 24 hours a day ;

13. The right to privacy respecting the source of payment for treatment and care, including access to the highest degree of care without regard to the source of payment for that treatment and care ;

14. The right, regardless of the source of payment, to examine and receive an itemized and detailed explanation of his total bill for services rendered in the facility;

15. The right to timely prior notice of any termination of his eligibility for reimbursement for the expense of his care by a 3rd-party payer;

16. The right not to be transferred to another facility unless he has received a complete explanation of the desirability and need for the transfer, unless the other facility has accepted the patient for transfer, and unless the patient has agreed to transfer. If the patient does not agree to the transfer, the patient has the right to a consultant's opinion on the desirability of transfer;

17. The right, upon termination of his stay at the hospital, to a complete copy of the information contained in his medical record; and

18. The right to reasonable access to a patient's rights advocate where such advocates are required under this law.

§ 1733. Appointment of patient rights advocate

1. Appointment. The board of directors of every hospital of over 150-bed capacity shall by December 1, 1977, appoint a committee of 3 private citizens which shall hire or appoint a patient rights advocate for that hospital. The hospital shall, from its own funds, pay the advocate an annual salary of at least \$10,000. The salary shall be paid in equal installments on the same schedule as administrative employees of that hospital are paid. The advocate shall be responsible only to that committee for his employment.

2. Human Rights Commission. The Maine Human Rights Commission shall ensure that each hospital appoint a patient rights advocate by January 1, 1978, and that any vacancy is filled within 30 days of its occurrence. If a patient rights advocate is not appointed for a hospital required to have one under this section, or if a vacancy in that position is not filled within the required time limit, the Maine Human Rights Commission shall appoint an advocate to a term of one year, who shall otherwise serve as if appointed under subsection 1.

§ 1734. Information concerning rights and advocate

1. Furnished to patient. Each hospital shall supply each patient, at the time of his admission, with a list of the rights enumerated in section 1732. Each hospital of over 150-bed capacity shall also supply that patient with the name of the patient rights advocate for that hospital.

and in each of its admissions' offices a list of the rights enumerated in section 1732. Each hospital of over 150-bed capacity shall also prominently display in its emergency room and in each of its admissions' offices the name of the patient rights advocate for that hospital.

§ 1735. Aggrieved party to recover appropriate damages

A patient may recover appropriate monetary damages for the violation of any right set forth in section 1732.

§ 1736. Jurisdiction

Jurisdiction over any civil action under section 1735 shall be in the District Court, as set forth in Title 4, section 152.

STATEMENT OF FACT

The purpose of this bill is to insure that all hospital patients in both public and private institutions in the State of Maine are granted equitable and humane treatment at all times and under all circumstances. This principle entails an obligation on the part of all those involved in the care of the patient to recognize and to respect his individuality and his dignity as set forth in the body of this law and to establish a procedure to assure that end.