

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1721

H. P. 1471

House of Representatives, April 25, 1977

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

EDWIN H. PERT, Clerk

Presented by Mrs. Najarian of Portland.

Cosponsors: Mrs. Kany of Waterville, Mr. Spencer of Standish and Mr. Valentine of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Require the Department of Human Services to License and Make Direct Reimbursements to Free-standing Health Clinics.

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

22 MRSA c. 405-A is enacted to read:

CHAPTER 405-A

LICENSING OF HEALTH CLINICS

§ 185I. Definition of health clinic

1. Definition. As used in this chapter, unless the context clearly indicates otherwise, the words "health clinic" shall mean a facility which offers, on the premises of the facility, primary health care on an ambulatory basis, including any of the following services:

- A. Observation, diagnosis and active treatment of persons who are ill or who have been injured;
- B. Routine health checkups;
- C. Immunizations;
- D. Prenatal care and obstetrics;
- E. Outpatient surgical procedures;
- F. Diagnostic and therapeutic radiology services; and
- G. Health-related counseling and education.

2. Care provided. For the purposes of this chapter, a health clinic shall provide at least:

A. A program of planned nursing care under the charge of a registered nurse; and

B. A program of planned medical care under the charge of a physician.

3. Facilities not included. A health clinic shall not mean the following:

A. Any infirmary providing either inpatient or outpatient health care, located in a university, college, municipal, county or state government institution, or industry;

B. Any private office or office grouping maintained by and for private physicians, dentists or other licensed independent health service professionals, including professional associations, solely for the practice of their profession;

C. Any agency which provides family planning services pursuant to chapter 406;

D. Any community mental health center licensed by the Department of Mental Health and Corrections; and

E. Any other health care facility licensed or certified pursuant to other state laws.

§ 1852. License required; term of license

1. License required. Effective July 1, 1978, no person, firm, corporation, association, county or municipal government shall operate a health clinic without having, subject to this chapter and the rules and regulations promulgated by the Department of Human Services under this chapter, a written license therefor from the department.

2. Term of license. The term of any license issued under this chapter, other than a temporary license, shall be for one year, provided the department may issue licenses for less than one year to achieve an even-monthly distribution of workload.

§ 1853. Issuance of license

1. License issued. The department shall issue a regular license with reasonable promptness for any health clinic which complies with applicable law and rules.

2. Failure to meet requirements. When any applicant for a regular license for a health clinic fails to comply with applicable law and rules, the department may refuse to issue a regular license or may issue a temporary or conditional license.

3. Temporary license. When, in the judgment of the commissioner, the best interest of the public could be so served, the department may issue a temporary license for a specified period, not exceeding 90 days, during which period corrections specified by the department shall be made by the health clinic to comply with applicable law and rules.

4. **Conditional license.** When, in the judgment of the commissioner, the best interest of the public could be so served, the department may issue a conditional license for a period of one year, during which period corrections specified by the department shall be made by the health clinic to comply with applicable law and rules.

Failure by the conditional licensee to meet the conditions specified by the department shall permit the department to void the conditional license. The conditional license shall be void when the department has delivered in hand or by certified mail a written notice to the conditional licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left notice thereof at the health clinic.

5. **Subsequent application for regular license.** A subsequent application by a health clinic for a regular license may be considered by the department when the deficiencies set forth by the department at the time of:

- A. Issuance of a temporary license;
- B. Issuance of a conditional license;
- C. Refusal to issue or renew a regular license; or
- D. Revocation of a regular license has been corrected.

6. **Appeals.** Any person aggrieved by the department's decision to:

- A. Issue a temporary or conditional license;
- B. Void a conditional license; or
- C. Refuse to issue or renew a regular license may file, within 30 days of the notice of the decision, a complaint with the Administrative Court as provided in Title 5, chapter 305.

The Administrative Court may reinstate a voided conditional license, pending a decision on the appeal to the Administrative Court, unless reinstatement would immediately endanger the health or safety of persons attending the health clinic.

§ 1854. Suspension or revocation of license

1. **License suspended or revoked.** Any license issued under this chapter may be suspended or revoked for violation of applicable law or rules committing, permitting, aiding or abetting any illegal action in the health clinic; or conduct or practices detrimental to the welfare of persons attending the health clinic.

2. **Emergency suspension.** Whenever, on inspection by the department, conditions are found which violate applicable law or rules which, in the opinion of the commissioner, immediately endanger the health or safety of persons living in or attending a health clinic, the department by its duly authorized agents may suspend any license issued under this chapter.

When the department has suspended a license under emergency conditions, it shall file a complaint promptly with the Administrative Court as provided in Title 5, chapter 305.

The license shall be suspended when the department has delivered in hand or by certified mail a written notice to the licensee or, if the licensee cannot be served in hand or by certified mail, has left notice of the emergency suspension at the health clinic.

The license shall be suspended until the department determines that an emergency no longer exists or until a decision reinstating the license is rendered by the Administrative Court.

§ 1855. Right of entry

The department shall have the right of entry to any health clinic licensed under this chapter at any time in order to determine the state of compliance by the health clinic with applicable laws or rules. Further, the department shall have the right of entry to inspect any health clinic which the department knows or believes is being operated without a license, but only with the permission of the owner or person in charge or with a search warrant or inspection warrant from the District Court authorizing entry and inspection. Any application for a license under this chapter shall constitute permission for entry and inspection to verify compliance with applicable law or rules.

§ 1856. Rules

1. Rules promulgated. By no later than 90 days after the effective date of this Act, the commissioner shall promulgate and adopt rules for health clinics, which shall include, but not be limited to, rules pertaining to administration, staffing, records, medications, the quality of care and treatment and the health and safety of staff patients.

2. Public hearing. The commissioner shall hold a public hearing prior to adopting rules. Notice of the public hearing shall be published at least 30 days before the hearing in a newspaper or newspapers of general circulation adequate to provide reasonable notice to the public affected thereby and a 2nd notice shall be published in the same newspaper or newspapers no more than 15 days before the hearing.

3. Rules amended or repealed. Rules may be amended or repealed at any time by the commissioner after like notice and hearing of the portions amended or repealed.

§ 1857. Fees for license

Each application for a license shall be accompanied by a fee of \$50. The fee for a conditional or a temporary license shall be the same as for a regular license. No fee shall be refunded.

§ 1858. Fire safety

1. Inspection required. No license shall be issued by the department to a health clinic until the department has received from the State Fire Marshal a written statement signed by one of the officials designated under Title 25, sections 2360, 2391 or 2392, to make fire safety inspections. This statement, which shall indicate that the health clinic has complied with

applicable fire safety provisions referred to in Title 25, section 2452, shall be furnished annually by the State Fire Marshal to the department.

2. Fees. The department shall establish and pay reasonable fees to the State Fire Marshal or municipal official for each inspection.

§ 1859. Reimbursements

No rule of the department shall be adopted or enforced which would have the effect of denying direct reimbursement of medical assistance funds by the department to a health clinic licensed pursuant to this chapter.

§ 1860. Treatment of minors

Any health clinic licensed under this chapter which provides services to a minor in connection with the treatment of such minor for venereal disease or abuse of drugs is under no obligation to attain the consent of that minor's parent or guardian or to inform that parent or guardian of the provision of those services so long as those services have been provided at the direction of a licensed, certified or registered person who is authorized by law to provide such services without obtaining the consent of the minor's parent or guardian.

§ 1861. Violation; penalty

Intentional violation of the provisions of this chapter shall be punishable as a Class E crime, punishable by imprisonment not to exceed 6 months or a fine, as provided in Title 17-A, section 1301.

STATEMENT OF FACT

The primary purpose of this bill is to require free-standing health clinics which provide primary health services on an ambulatory basis to be licensed by the Department of Human Services. A 2nd purpose of the bill is to prohibit the department from denying direct reimbursement of medical assistance funds to a health clinic.