

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 644

S. P. 229

In Senate, February 20, 1979

Referred to the Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

Presented by Senator Pierce of Kennebec.

Cosponsor: Senator Gill of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Set Forth the Rights and Responsibilities of Hospital Patients and
Responsibilities of Physicians.**

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

22 MRSA c. 402 is enacted to read:

CHAPTER 402

**RIGHTS AND RESPONSIBILITIES OF HOSPITAL
PATIENTS AND RESPONSIBILITIES OF PHYSICIANS**

§ 1731. Definitions

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

1. **Hospital.** "Hospital" means any health care facility located in this State which is licensed as a "hospital" by the Department of Human Services.

2. **Patient.** "Patient" means a person who is admitted for in-patient care at a hospital for the purpose of diagnosis or treatment bearing on the physical and mental health of that person or who receives out-patient care for that purpose.

3. **Physician.** "Physician" means any person licensed to practice allopathic or osteopathic medicine in the State.

§ 1732. Rights of patients in hospitals

A patient shall have the following rights.

1. **Care.** Every patient shall have the right to considerate and respectful care, including, to the extent practicable, privacy in treatment and in care for personal needs.

2. **Hospital rules and regulations.** Every patient has the right to be fully informed, prior to or at the time of admission and during stay, of all rules and regulations governing his conduct and responsibilities.

3. **Civil and religious liberties.** Every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the hospital shall encourage and assist in the fullest possible exercise of these rights.

4. **Confidentiality of records.** Every patient shall be assured confidential treatment of his personal and medical records, and may approve or refuse his release to any individual outside the hospital, except as otherwise provided by law or a 3rd party payment contract or in the case of transfer to another health care facility.

5. **Availability of hospital services.** Every patient has the right to be fully informed in response to a patient's inquiry, prior to or at the time of admission and during his stay, of services available in the hospital and of related charges not covered under 3rd party payment contracts or not covered by the hospital's basic per diem rate.

6. **Transfers.** Every patient has the right to expect transfer or discharge only for medical reasons or for his welfare or that of other patients and the patient shall be given reasonable advance notice to ensure orderly transfer or discharge.

7. **Medical treatment.** Every patient has the right: To be afforded the opportunity to participate, to the extent practicable, in the planning of his medical treatment; to be advised if he is to be involved in medical research or experimentation and to refuse to participate in that experimental research; and to refuse medication and treatment, provided that if a patient refuses medication or treatment, neither the hospital, its employees nor the physician will be responsible for any harm resulting to the patient due to the refusal.

8. **Responses to requests.** Every patient has the right to expect the hospital to make a reasonable response to his requests for service.

9. **Abuse and restraints.** Every patient shall have the right to be free from mental and physical abuse and free from chemical and physical restraints, except in emergencies, or as authorized by his physician for a specified and limited period of time, or when necessary to protect the patient from injury to self or others.

10. Associations and communications. Every patient has the right to associate and communicate privately during visiting hours or by telephone with persons of his choice to the extent that facilities are available and to the extent that such is not medically contraindicated, as documented by his physician in the medical record.

11. Grievances. Every patient has the right to present grievances on his behalf to the hospital's staff, administration and governing board, to government officials or to any other official, free from restraint, interference, coercion, discrimination or reprisal and every hospital shall indicate to each patient, at the time of admission, the procedure established within that hospital for the presentation of grievances and complaints.

§ 1733. Responsibility of physician to patient in hospital

As a condition to appointment and reappointment to the medical staff of a hospital, a physician shall have the following responsibilities to his patient in the hospital.

1. Information on diagnosis, treatment and prognosis. The physician has the responsibility to provide his patient with complete and current information concerning the patient's diagnosis, treatment and prognosis in terms that the patient can be reasonably expected to understand. In cases where it is not medically advisable to give that information to the patient, the information shall be made available to an appropriate person when, in the judgment of the physician, it would be in the patient's best interest.

2. Informed consent. The physician has the responsibility to provide his patient with information necessary to allow the patient to give informed consent prior to the start of treatment. Except in emergencies, or when in the opinion of the physician it is medically contraindicated, that information should include the treatment or procedure and the usual and most frequent risks and hazards inherent in the proposed procedures or treatments.

3. Medical consequences. The physician has the responsibility to inform the patient of the usual and most frequent medical consequences in the event the patient refuses treatment.

4. Alternatives and transfers. The physician has the responsibility to inform the patient of the need for, and alternatives to, any transfer to another health care facility.

5. Consultation. The physician has the responsibility to recommend consultation with other physicians or specialists when requested by the patient or when medically indicated.

6. Research projects. The physician has the responsibility to advise the patient if the patient is to be involved in a research project and of his right to refuse to participate in such a project.

7. Patient complaints. The physician has the responsibility to listen and discuss any complaints the patient has regarding his case.

§ 1734. Responsibilities of patient

Each patient shall have the following responsibilities.

1. Appointments. The patient has the responsibility to keep appointments or to advise the hospital or his physician when unable to do so.

2. Personal information. The patient has the responsibility to furnish to his physician or the hospital information about past illnesses, hospitalizations, medications and other pertinent facts relating to his health.

3. Instructions for care. The patient has the responsibility to indicate if he is unable to understand or follow instructions for his care. The patient has the responsibility to attempt to understand his illness and the course of treatment prescribed by his physicians.

4. Visitors; noise; smoking. The patient has the responsibility to be considerate of other patients, particularly with regard to visitors, noise and smoking.

5. Financial obligation. The patient has the responsibility to provide complete information necessary to assist all providers of care in determining his ability to pay promptly all outstanding obligations within his ability to pay.

§ 1735. Information concerning rights

Except in emergency situations, when it would be impractical, each hospital shall supply each patient, at the time of admission, with a list of the rights and responsibilities adopted as hospital policy. Each hospital shall include in this list the name of at least one person or group serving as a patient rights advocate to whom the patient can complain in case of a possible violation of rights. The person or group serving as a patient rights advocate may also perform other duties at the hospital.

§ 1736. Remedy for breach of rights or responsibilities

The rights and responsibilities as enumerated in this chapter shall be construed as a contract between the hospital and the patient and between the physician and the patient, as applicable. Any action hereunder shall be for a breach of such contract and shall be maintained in accordance with and under the provisions of the Maine Health Security Act, Title 24, chapter 21.

STATEMENT OF FACT

The purpose of this bill is to set forth the rights and responsibilities of hospital patients as well as the responsibilities of physicians to those patients. A hospital has many functions to perform, including the prevention and treatment of disease, the education of both health professionals and patients, and the conduction of

clinical research. All these activities must be conducted with an overriding concern for the patient, and, above all, the recognition of his dignity as a human being. Success in achieving this recognition assures success in the defense of the rights of the patient.