

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1466**

H. P. 1089

House of Representatives, March 20, 1979

On Motion of Mrs. Prescott of Hampden, referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Prescott of Hampden.

Cosponsor: Mr. Elias of Madison.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Provide for Licensing and Regulation of Adult Foster Homes.**

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

**Sec. 1. 22 MRSA § 7701, sub-§ 2**, as enacted by PL 1975, c. 719, § 6, is amended to read:

**2. Facility.** As used in this subtitle, the word "facility" shall mean any of the places defined in **section 7851, subsection 4**, section 7901, subsection 1, sections 8001, 8101, 8201 or 8301.

**Sec. 2. 22 MRSA § 7801, sub-§ 1**, as enacted by PL 1975, c. 719, § 6, is amended to read:

**1. License required.** No person, firm, corporation or association shall operate:

- A.** A large boarding care facility;
- B.** A drug treatment center;
- C.** A children's home;
- D.** A child placing agency; or

E. A day care facility; or

F. A small facility for adults

without having subject to this subtitle and to rules promulgated by the department under this subtitle, a written license therefor from the department.

Sec. 3. 22 MRSA c. 1664 is enacted to read:

#### **CHAPTER 1664**

#### **SMALL FACILITIES FOR ADULTS**

##### **§ 7851. Definitions**

As used in this subtitle, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Adult foster home.** "Adult foster home" means a residence maintained for the purpose of providing boarding care for 6 or fewer residents.

2. **Resident.** "Resident" means any person 16 years of age or older who is not related by blood or marriage to the owner or operator of the small facility for adults of which he is a resident.

3. **Small boarding care facility.** "Small boarding care facility" means a facility maintained for the purpose of providing boarding care, personal care, supervision and social services to 6 or fewer aged, blind, mentally ill, mentally retarded or otherwise appropriate residents.

4. **Small facilities for adults.** "Small facilities for adults" means either a small boarding care facility or an adult foster home.

##### **§ 7852. Rules**

Subject to the Maine Administrative Procedure Act, the commissioner shall promulgate rules for small facilities for adults, which shall include but need not be limited to rules pertaining to administration, staffing, the number of residents, the quality of care, the quality of treatment if applicable, the health and safety of staff and residents, fire safety, the rights of residents, community relations, the administration of medication and licensing procedures.

In establishing the rules for the administration of medication, the commissioner shall consider, among other factors, the general health of the persons likely to receive medication, the number of persons served by the facility and the number of persons employed by the facility.

##### **§ 7853. License fees**

The department shall charge an annual fee of \$25 for regular temporary or conditional licenses for small boarding care facilities and an annual fee of \$10 for regular, temporary or conditional licenses for adult foster homes.

##### **§ 7854. Personal funds of residents**

**1. Permission to manage personal funds.** No operator or agent of any small facility for adults shall manage, hold or deposit in a financial institution the personal funds of any resident of the facility, unless the operator or agent has received written permission therefor from:

**A.** The resident, if the resident is not mentally retarded and has no guardian, trustee or conservator;

**B.** The resident's guardian, trustee or conservator, if that person exists and can be reached; or

**C.** The department, if a guardian, trustee or conservator exists, but cannot be reached, or, in the case of a mentally retarded resident, if that resident has no guardian, trustee or conservator.

Whenever the department gives written permission to an operator or agent to manage, hold or deposit the personal funds of any mentally retarded residents, the department may request the Bureau of Mental Retardation, Department of Mental Health and Corrections, to develop, insofar as resources are available, an appropriate plan for the management of these funds.

**2. Itemized accounting.** Any operator or agent who, after receiving written permission pursuant to subsection 1, manages or holds the personal funds of any resident, shall maintain an account for these funds, which shall include for each resident a separate, itemized accounting for the use of the resident's personal funds, with supporting documentation for every expenditure in excess of \$2.

**3. Depositing personal funds.** The department may require an operator or agent of a small facility for adults to deposit in a financial institution the personal funds of a resident, if:

**A.** The resident has a guardian, trustee or conservator who cannot be reached; or

**B.** In the case of a mentally retarded resident, the resident has no guardian, trustee or conservator.

**4. Use of personal funds by operator prohibited.** Under no circumstances shall any operator or agent of a small facility for adults use the personal funds of any resident for the operating costs of the facility or for services or items which are reimbursable on a reasonable cost basis. The personal funds of any resident shall not be comingled with the business funds of the facility or with the personal funds or accounts of the owner, any member of the owner's family or any employee of the facility.

**5. Reimbursements to small facilities for adults for mentally retarded persons.** No rule of the department shall be adopted or enforced which would have the effect of denying, solely by reason of size, to any adult care facility which has a capacity of 6 or less residents and which serves only mentally retarded persons or persons with related conditions, the opportunity to receive from the

department reimbursements based on the reasonable costs of operating the facility. In no case shall the maximum allowable costs be less than the ceilings set for small boarding care facilities.

**§ 7855. Reimbursement rates**

Except as otherwise provided in section 7854, the department shall pay each resident of a small boarding care facility who is a supplemental security income recipient at least \$275 a month and shall reimburse on a reasonable cost basis each small boarding care facility whose proportionate costs for each such resident exceed that amount. Except as otherwise provided in section 7854, the department shall pay each resident of an adult foster home who is supplemental security income recipient at least \$225 a month.

**Sec. 4.** 22 MRSA § 7901, sub-§ 1, as enacted by PL 1975, c. 719, § 6, is amended to read:

**1. Large boarding care facility.** As used in this subtitle, the term "large boarding care facility" shall mean a house or other place having more than 2 6 residents which, for consideration, is maintained wholly or partly for the purposes of boarding and caring for the residents.

**Sec. 5.** 22 MRSA § 7903, as enacted by PL 1975, c. 719, § 6, is amended to read:

**§ 7903. Fees for licenses**

The department shall charge an annual fee of ~~\$25 for regular licenses for boarding care facilities having a capacity of 6 or less residents and \$50 for regular licenses for large boarding care facilities having a capacity of more than 6 residents.~~

In addition, the department shall charge a fee of ~~\$25~~ \$50 for temporary or conditional licenses for large boarding care facilities having a capacity of 6 or less residents and \$50 for such licenses for boarding care facilities having a capacity of more than 6 residents.

**Sec. 6.** 22 MRSA § 7906, as enacted by PL 1975, c. 719, § 6, is repealed.

**Sec. 7.** 22 MRSA § 7907, as enacted by PL 1975, c. 708, § 1, is amended to read:

**§ 7907. Boarding care payments**

~~Except as otherwise provided in section 7906, the~~ The department shall reimburse all boarding care facilities at a rate of pay each resident of a large boarding care facility who is a supplemental security income recipient at least \$275 per month and shall reimburse all approved adult foster homes at a rate of at least \$225 per month.

**Sec. 8. Transitional provision.** For the purposes of this Act, an adult foster home or boarding care facility, which is licensed under the Revised Statutes, Title 22, chapter 1663, on the day before the effective date of this Act, shall continue to be licensed after the effective date of this Act on the same terms and conditions

until its regular, temporary or conditional license expires. After expiration of that license, any adult care facility shall comply with this Act and the rules promulgated hereunder.

**STATEMENT OF FACT**

The purpose of this bill is to establish small care facilities for adults which will provide boarding care for 6 or fewer residents.