

MAINE STATE LEGISLATURE

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D. O. R.

L.D. 1927

STATE OF MAINE
SENATE
109TH LEGISLATURE
SECOND REGULAR SESSION

(Filing No. S-521)

CONFERENCE COMMITTEE AMENDMENT "A" to H.P. 1816, L.D. 1927,
Bill, "AN ACT to Provide for Licensing and Regulation of Adult
Foster Homes."

Amend the Bill by striking everything after the enacting
clause and inserting in its place the following:

'Sec. 1. 22 MRSA §7901, sub-§3 is enacted to read:

3. Adult foster care facility. "Adult foster care facility"
means a residence, other than a boarding care facility, operated
for the purpose of providing boarding care to 4 or fewer residents.

Sec. 2. 22 MRSA §7908 is enacted to read:

§7908. Approval by department; rules.

1. Approval required. No adult foster care facility may
be eligible to receive state reimbursement without first being
approved by the Department of Human Services.

2. Limitations on rules. Pursuant to the Maine Administra-
tive Procedure Act, Title 5, chapter 375, the commissioner shall
adopt reasonable rules to carry out the purposes of this section.
These rules shall be limited to rules concerning admission policies,
safety, sanitation and protection of civil rights. Rules
adopted in 1980 shall expire on December 31, 1980.

Sec. 3. Transition provision. For the purposes of this Act,
any adult foster care facility or boarding care facility which was
approved or licensed on the day before the effective date of this
Act shall continue to be approved or licensed after the effective
date of this Act until its regular, temporary or conditional ap-
proval or license expires. After the expiration of that approval
or license, any facility shall comply with this Act and the rules
adopted hereunder.'

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CONFERENCE COMMITTEE AMENDMENT "A" to H.P. 1816, L.D. 1927 -2-

Statement of Fact

The Pineland suit, deinstitutionalization policies and the expanding needs of the handicapped together demand continuation of a sound program of community-based residential facilities for the mentally retarded, the mentally ill and other dependent adults.

The Department of Human Services, in partial response to this need, already operates an adult foster care program. The Department merely "approves" adult foster homes that receive state reimbursement. Unfortunately, clear statutory authority for this program is absent. According to a recent opinion of the Attorney General, the validity of the Department's rules for approval of state-reimbursed adult foster homes is doubtful. This is a very critical problem because it threatens the State's ability to safeguard residents' health, safety and care, and also jeopardizes federal matching funds. In fact, if the rules for approval of state-reimbursed adult foster homes were successfully challenged in court, we would be in danger of losing at least \$150,000 in federal funds per year. This would obviously put tremendous pressure on the State to make up for the loss and would threaten a major source of payment for many adult foster homes.

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CONFERENCE COMMITTEE AMENDMENT " A " to H.P. 1816, L.D. 1927 -3-

This ^{amendment} / merely places in statute the authority to approve adult foster homes seeking state reimbursement. It also restricts the ~~D~~epartment's rule-making authority to specific areas related to health, safety, care and sanitation. It also provides that the first rules adopted under this ^{amendment} / shall expire on December 31, 1980.

Reported by the Conference Committee on L.D. 1927.

Reproduced and distributed pursuant to Senate Rule 11-A.

March 26, 1980

(Filing No. S-521)