

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1171

H. P. 980

House of Representatives, March 9, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Prescott of Hampden.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Redefine Certain Long-Term Care Facilities.

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

Sec. 1. 22 MRSA § 1811, first and 2nd sentences, as amended by PL 1967, c. 231, § 1, are further amended to read:

No person, partnership, association or corporation, nor any county or local governmental units, shall establish, conduct or maintain in the State any hospital, sanatorium, ~~convalescent home, rest home~~ nursing home or other institution for the hospitalization or nursing care of human beings without first obtaining a license therefor. Hospital, sanatorium, ~~convalescent home, rest home~~ nursing home and other related institution, within the meaning of this chapter, 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 or care of ~~any aged or infirm persons requiring or receiving chronic or convalescent care and treatment of persons whose physical or mental conditions, or both, require them to receive a degree of nursing or related health care greater than that necessary for well individuals, but not of the kind or degree as to require hospitalization.~~

Sec. 2. 22 MRSA § 1812-A, as enacted by PL 1965, c. 403, is repealed.

Sec. 3. 22 MRSA § 1812-C is enacted to read:

§ 1812-C. Nursing home defined

1. General definition. A nursing home means either a skilled nursing facility or an intermediate care facility.

2. Skilled nursing facility. To qualify for licensure as a skilled nursing facility, a facility shall:

A. Be primarily engaged in providing to residents skilled nursing services and related medical services for a period not less than 24 hours per day, and rehabilitative services to individuals admitted because of illness, disease, injury, disability or physical or mental condition;

B. Have written policies;

C. Have a physician, or a registered professional nurse, or a medical staff responsible for the execution of such policies;

D. Require that the health care of every resident must be under the supervision of a physician, who sees the resident as needed and at least every 30 days;

E. Maintain individual records on each resident;

F. Provide appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

G. Have in effect a transfer agreement with a hospital;

H. Have in effect a utilization review plan approved by the department; and

I. Meet all other requirements outlined in rules and regulations promulgated under this chapter.

3. Intermediate care facility. To qualify for licensure as an intermediate care facility, a facility shall:

A. Be primarily engaged in providing to residents:

(1) Nursing services for a period not less than 24 hours per day, and care to individuals who, because of their physical or mental condition, or both, require living accommodations and care which, as a practical matter, can be made available to them only through institutional facilities and who do not have such an illness, disease, injury, disability, or other conditions as to require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide; and

(2) Related services for residents who require medical or nursing care;

B. Have written policies;

C. Have a physician or a registered professional nurse or a medical staff responsible for the execution of such policies;

D. Require that the health care of every resident must be under the supervision of a physician who sees that resident as needed and at least every 60 days;

E. Maintain individual records on each resident;

F. Have in effect a written transfer agreement with a hospital; and

G. Meet all other requirements outlined in rules and regulations promulgated under this chapter.

Sec. 4. 22 MRSA § 1813, as amended by PL 1967, c. 231, § 3, is further amended to read:

§ 1813. Existing hospitals must obtain licenses

No person, partnership, association or corporation, nor any county or local governmental units may continue to operate an existing hospital, sanatorium ~~convalescent home, rest home~~ or nursing home, nor open a hospital, sanatorium ~~convalescent home, rest home~~ or nursing home unless such operation shall have been approved and ~~regularly~~ **annually** licensed by the State.

Sec. 5. 22 MRSA § 1815, first sentence as repealed and replaced by PL 1975, c. 491, § 2, is amended to read:

Each application for a license to operate a hospital ~~convalescent home~~ or nursing home shall be accompanied by a fee of \$50 for facilities less than 50 beds in size, a fee of \$100 for facilities 51 to 100 beds in size, and a fee of \$200 for facilities larger than 100 beds in size.

Sec. 6. 22 MRSA § 1817, first sentence, as repealed and replaced by PL 1977, c. 694, § 345, is amended to read:

The department is authorized to issue licenses to operate hospitals, sanatoriums, ~~convalescent homes, rest homes~~ nursing homes or other related institutions, which, after inspection, are found to comply with this chapter and any regulations adopted by the department.

Sec. 7. 22 MRSA § 1817, 4th sentence, as repealed and replaced by PL 1977, c. 694, § 345, is amended to read:

The fee for this temporary or conditional license shall be ~~\$15~~ **\$25 for facilities less than 50 beds in size, \$50 for facilities 51 to 100 beds in size, and \$75 for facilities larger than 100 beds in size,** and shall be payable at the time of issuance of such a license.

Sec. 8. 22 MRSA § 1817, as repealed and replaced by PL 1977, c. 694, § 345, is amended by adding after the 4th sentence a new sentence to read:

The department may freeze admissions to any facility which has been issued a temporary or conditional license if the department finds that the health or safety of the existing or new residents would be in jeopardy if more residents were

admitted than were residing in the facility at the time of issuance of the temporary or conditional license.

Sec. 9. 22 MRSA § 1821, as amended by PL 1967, c. 231, § 6, is further amended to read:

§ 1821. Violations; penalties

Any person, partnership, association or corporation, including county or local governmental units, establishing, conducting, managing or operating any hospital, sanatorium, ~~convalescent home, rest home~~ nursing home or institution within the meaning of this chapter, without first obtaining a license therefor, or who shall violate any of the provisions of ~~said~~ this chapter or regulations thereunder, ~~shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100 \$500 or by imprisonment for not more than 90 days 11 months, or by both.~~

Sec. 10. 22 MRSA § 1822, first ¶, as enacted by PL 1971, c. 281, is amended to read:

Any person, including county or local government units, who is conducting, managing or operating any hospital, sanatorium ~~convalescent home, rest home~~ nursing home or institution within the meaning of this chapter, and who is properly licensed therefor in accordance with this chapter, shall give at least 30 days' advance notice of the voluntary closing of such facility to the patients therein and to those persons, governmental units or institutions who are primarily responsible for the welfare of those patients who are being cared for by ~~said~~ the hospital, sanatorium, ~~convalescent home, rest home~~ nursing home or institution so that adequate preparation may be made **by the department** for the orderly and appropriate transfer of ~~said~~ the patients to another qualified facility or appropriate residential or institutional setting, with full assessment of each individual's desires and needs taken into consideration.

Sec. 11. 22 MRSA § 7901, sub-§ 1, as enacted by PL 1975, c. 719, § 6, is amended to read:

1. **Boarding care facility.** As used in this subtitle, the term "boarding care facility" ~~shall mean means a house or other place having more than 2 residents which, for consideration, is maintained wholly or partly for the purposes of boarding and caring for the residents facility providing to 2 or more residents personal care, supervision and social services for individuals who are ambulatory with or without assistive devices and who do not have such an illness, disease, injury or other condition as to require the degree of care and treatment which a hospital or nursing home is designed to provide, and providing such care and services under the supervision of personnel to provide adequate and appropriate care during all hours of each day and all days of each week.~~

Sec. 12. 22 MRSA c. 1674 is enacted to read:

CHAPTER 1674

LONG-TERM CARE FACILITIES

§ 8351. Legislative intent

The Legislature finds that there are a number of adult foster homes and eating and lodging establishments in Maine which provide long-term residence for Maine citizens, but are not responsible for the health, safety and welfare of residents. Therefore, it is the intent of the Legislature to assure that basic health, safety and welfare standards are assured to individuals who reside in establishments for long-term residency.

§ 8352. Definitions

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

1. Adult foster care facility. "Adult foster care facility" means any building which contains 2 or more units of dwelling space, arranged or intended for single room occupancy, where personal or financial services are provided to the residents, including long-term residential facilities.

2. Financial services. "Financial services" means any assistance furnished by an owner or operator to a resident in the management of personal financial matters, including, but not limited to, the cashing of checks, holding of personal funds for safekeeping in any manner or assistance in the purchase of goods or services with a resident's personal funds.

3. Long-term residential facility. "Long-term residential facility" means any building which contains units of dwelling space and is kept, used, maintained or held out to be a place where sleeping or dwelling accommodations are available to permanent guests, excluding any hotel, motel or established guest house wherein the dwelling space is offered primarily for transient guests.

4. Personal services. "Personal services" means any services furnished by an owner or operator to a resident, other than shelter, including, but not limited to, meals or other food services and assistance in dressing, bathing or attending to other personal needs.

5. Resident. "Resident" means an adult who lives in an adult foster home or long-term residential facility and who compensates the owner of the facility for room, board, personal services or financial services.

§ 8353. Establishment of standards

1. General duty. The Commissioner of Human Services shall establish standards to ensure that every adult foster care facility and long-term residential care facility in this State is constructed and operated in such a manner as will protect the health, safety and welfare of its residents and at the same time preserve and promote a homelike atmosphere appropriate to such facilities.

2. **Specific standards.** The standards under subsection 1 shall provide for, but not be limited to, the following:

- A. Safety from fire;
- B. Safety from structural, mechanical, plumbing and electrical deficiencies;
- C. Adequate light and ventilation;
- D. Physical security;
- E. Protection from harassment, fraud and eviction without due cause;
- F. Clean and reasonably comfortable surroundings;
- G. Adequate personal and financial services;
- H. Maintenance of orderly and sufficient financial and occupancy records;
- I. Referral of residents, by the operator, to social service and health agencies for needed services;
- J. Reasonable access for employees of public and private agencies and reasonable access for other citizens upon receiving the consent of the resident to be visited by them; and
- K. Opportunity for each resident to live with as much independence, autonomy and interaction with the surrounding community as he is capable of.

§ 8354. Department approval

The Department of Human Services may approve all adult foster care and long-term residential facilities in accordance with the standards promulgated pursuant to this chapter. No adult foster care facility is eligible to receive state reimbursement without first being approved by the department. All long-term residential facilities must be approved by the department by December 31, 1985.

§ 8355. Department authority to inspect

Whenever an adult foster care facility or long-term residential facility, not approved under this chapter, by public or private advertising or by other means holds out to the public that it is equipped to provide convalescent care for persons mentally ill or mentally retarded or who are suffering or recovering from illness or injury, or who are chronically ill, or whenever there is reason to believe that any such facility, not approved under this chapter, is violating any of the provisions of this chapter, then, and in such cases, the department shall be permitted reasonable inspection of such premises for the purpose of ascertaining whether there is any violation of this chapter. If any such adult foster care facility or long-term residential facility operates as a private mental hospital, nursing home or private hospital under this chapter, then it is liable to the penalties which are prescribed in section 1821.

STATEMENT OF FACT

This bill redefines boarding homes, adult foster homes and long-term residential facilities so that they do not overlap in the statutes. This bill also clarifies the term "nursing home" in Maine statutes.

The intent of this bill was recommended to the Governor by the Long-Term Care Task Force for Adults.