

MAINE STATE LEGISLATURE

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New Draft of: S. P. 127, L. D. 299
(New Title)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1516

S. P. 551

In Senate, April 2, 1981

Reported by Senator Gill of Cumberland from the Committee on Health and Institutional Services and Printed under Joint Rules No. 2.

MAY M. ROSS, Secretary

STATE OF MAINE

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

AN ACT to Facilitate the Development of More Placements in Boarding Homes that are Small, Homelike and Safe for Ambulatory and Mobile Nonambulatory Persons.

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

Sec. 1. 22 MRSA § 7901, sub-§§ 4, 5 and 6 are enacted to read:

4. **Mobile nonambulatory.** As used in this chapter, "mobile nonambulatory" means a resident of a boarding care facility who is certified by a physician or psychologist as being unable to walk without assistance, but able to move from place to place with the use of a device, such as a walker, crutches, wheelchair or wheeled platform.

5. **Physician.** [⊙] As used in this chapter, "physician" means any person who is licensed in this State to practice medicine or osteopathy and who has had specialized training or at least one year of experience in treating persons with conditions similar to the conditions of the resident being certified pursuant to section 7904. No physician who certifies or recertifies a resident may be in the regular employ of or may have a financial interest in the boarding care facility in which the resident resides.

6. **Psychologist.** As used in this chapter, "psychologist" means any person who is licensed in this State as a psychologist or psychological examiner and who

has had specialized training or at least one year of experience in providing services to persons with conditions similar to the conditions of the resident being certified pursuant to section 7904. No psychologist who certifies a resident may be in the regular employ of or may have a financial interest in the boarding care facility in which the resident resides.

Sec. 2. 22 MRSA § 7904, sub-§ 3, as amended by PL 1975, c. 770, § 94, is repealed and the following enacted in its place:

3. Requirements for facilities with more than 6 but fewer than 16 beds. Notwithstanding any provision referred to under Title 25, section 2452, the department may permit any boarding care facility which has a capacity of more than 6 but fewer than 16 beds to comply with applicable fire safety provisions of the lodging and rooming house section, instead of the institutional occupancies section, of the Life Safety Code which has been adopted by the State Fire Marshal, if the following conditions are met.

A. Any building of 2 or more stories shall be equipped with an approved automatic sprinkler system, unless the building is of fire resistive or protected noncombustible construction as defined in the current edition of the National Fire Protection Association's Standard Types of Building Construction.

B. Automatic emergency lights shall be provided in such number and location as required by the State Fire Marshal.

C. The residents of the facility shall be certified annually by a physician or a psychologist as ambulatory and capable of following directions and taking appropriate action for self-preservation under emergency conditions.

D. Any local regulations which affect the life-safety requirements of the facility and which are more stringent than those referred to in this subsection shall take precedence.

Sec. 3. 22 MRSA § 7904, sub-§ 4 is enacted to read:

4. Requirements affecting mobile nonambulatory residents. Notwithstanding any provision referred to under Title 25, section 2452, the Department of Human Services may permit a boarding care facility, which has 8 or fewer beds and which has or intends to have residents who are mobile nonambulatory, to comply with provisions of the Life Safety Code, other than provisions under the institutional occupancy section, which have been adopted by the State Fire Marshal, provided that the following conditions are met.

A. If the facility has 6 or fewer beds, it shall comply with the lodging and rooming house section of the Life Safety Code.

B. If the facility has 7 or 8 beds, it shall comply with the lodging and rooming house section of the Life Safety Code; shall be equipped with automatic emergency lights in such number and location as required by the State Fire Marshal; and, if there is a building of 2 or more stories, shall be equipped with

an approved automatic sprinkler system, unless the building is of fire resistive or protected noncombustible construction, as defined in the National Fire Protection Association's Standard Types of Building Construction.

C. Each resident of the facility shall be certified at least annually by a physician or psychologist as being ambulatory or mobile nonambulatory and capable of following directions and taking appropriate action for self-preservation under emergency conditions. If the resident has been certified as mobile nonambulatory, he shall be examined and recertified by a physician once every 6 months. If the administrator of the facility believes or suspects that a resident is no longer capable of following directions and taking action for self-preservation under emergency conditions, he shall notify the Department of Mental Health and Corrections, if the resident is mentally ill or mentally retarded or has related conditions, or shall notify the Department of Human Services if the resident is elderly, physically disabled or an adult protective services' client, or has conditions not related to mental illness or mental retardation.

D. No more than 2 of the beds in the facility may be for mobile nonambulatory residents.

E. All mobile nonambulatory residents shall be housed on the first floor of the facility with direct egress to a common corridor with 2 exits leading directly to the exterior of the facility.

F. The facility shall be ramped to grade at both exits referred to in paragraph E.

G. There shall be at least one staff person available on the premises of the facility when any resident is present.

H. If the facility is of new construction, any doorway in the path of egress for a mobile nonambulatory resident shall be at least 36 inches in width. If the facility is of existing construction, any doorway in the path of egress for a mobile nonambulatory resident shall be at least 34 inches in width.

I. If the facility has mobile nonambulatory residents who are mentally ill or mentally retarded or who have related conditions, the facility shall be certified by the Department of Mental Health and Corrections as being able to ensure the safety of and provide services to such residents. If the facility has mobile nonambulatory residents who are elderly, physically disabled or adult protective services' clients, or have conditions not related to mental illness or mental retardation, the facility shall be certified by the Department of Human Services as being able to ensure the safety of and provide services to such residents.

J. Any local regulations which affect the life-safety requirements of a facility and which are more stringent than those referred to in this subsection shall take precedence.

Sec. 4. 22 MRS § 7909 is enacted to read:

§ 7909. Residents' records

Whenever there are pertinent and available health and other records about a person who seeks admission as a resident to a boarding care facility, those records shall be provided to the administrator of the facility at least 7 days prior to the date of admission, unless there are compelling reasons which make this impossible or impractical. If there are compelling reasons, including, but not limited to, emergency situations, the administrator shall receive, by not later than the date of admission, a written note which:

1. **Reasons explained.** Explains the compelling reasons why the records could not be provided 7 days prior to the date of admission; and
2. **When records will be provided.** If the records have not yet been received, shall state by when the records will be provided.

Nothing in this section may be construed to mean that a resident who is not a client of the Department of Human Services or the Department of Mental Health and Corrections shall be required, as a condition of admission, to provide records to the administrator of the facility.

STATEMENT OF FACT

This new draft of LD 299 is offered because of substantial changes in language. The bill now includes language affecting boarding care facilities for all residents, not just mentally retarded residents.

The new draft adds new definitions to the chapter on boarding care facilities and makes specific provisions for facilities which include mobile nonambulatory residents. All residents must be certified at least annually, and those certified as mobile nonambulatory must be recertified every 6 months by a physician. Facilities may not have more than 2 mobile nonambulatory residents, who shall be housed on the first floor.

Provisions for compliance with state and local life-safety requirements are included.

Finally, this new draft requires health and other records to be provided to the administrator of a facility at least 7 days prior to a person's admission, except for compelling reasons.