

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

D. OF R.

1

L.D. 591

2

(Filing No. S-133)

3

STATE OF MAINE

4

SENATE

5

112TH LEGISLATURE

6

FIRST REGULAR SESSION

7
8
9
10

COMMITTEE AMENDMENT "A " to S.P. 229, L.D. 591,
Bill, "AN ACT to Protect Applicants for Admission to
Nursing Homes from Unfair and Illegal Trade Prac-
tices."

11
12

Amend the bill by striking out all of the title
and inserting in its place the following:

13
14

'AN ACT Concerning Admission Contracts for Nurs-
ing Homes.'

15
16
17

Further amend the bill by striking everything af-
ter the enacting clause and before the statement of
fact and inserting in its place the following:

18
19

'Sec. 1. 22 MRSa §§1826 and 1827 are enacted to
read:

20

§1826. Nursing home admission contracts

21
22
23
24
25

All contracts or agreements executed at the time
of admission or prior to admission by a resident or
legal representative and by any nursing home licensed
pursuant to this chapter shall be subject to the re-
quirements of this section.

26
27

1. Required contract provisions. Each contract
or agreement shall contain the following provisions.

28
29
30
31
32

A. A resident may obtain medical care from any
qualified institution, agency or person of his
choice, as long as that health care provider com-
plies with any applicable laws or rules concern-
ing the provision of care to the resident.

33
34

B. A resident may obtain medication from any
qualified pharmacy, as long as that pharmacy com-

D. OF R.

COMMITTEE AMENDMENT "A" to S.P. 229, L.D. 591

1 plies with any applicable state rules and federal
2 regulations and with the reasonable policies of
3 the facility concerning procurement of medica-
4 tion.

5 2. Contract requirements. Each contract or
6 agreement is subject to the following requirements.

7 A. No contract or agreement may contain a provi-
8 sion for the discharge of a resident or the
9 transfer of a resident to another facility or to
10 another room within the same facility which is
11 inconsistent with state law or rule.

12 B. Each contract or agreement shall contain a
13 complete copy of the department regulations es-
14 tablishing residents' rights and shall contain a
15 written acknowledgement that the resident has
16 been informed of those rights. In the case of a
17 mentally retarded or otherwise incompetent indi-
18 vidual, the written acknowledgement of those
19 rights shall be made by a representative of the
20 resident. No provision in the contract or agree-
21 ment may negate, limit or otherwise modify any
22 provision of the residents' rights.

23 C. No provision of a contract or agreement may
24 require or imply a lesser standard of care or re-
25 sponsibility than is required by law or rule.

26 D. No provision in a contract or agreement may
27 state or imply a lesser degree of responsibility
28 for the personal property of a resident than is
29 required by law or rule.

30 E. No contract or agreement may require the res-
31 ident to sign a waiver of liability statement as
32 a condition of discharge, even if the discharge
33 is against medical advice. This does not prohib-
34 it a facility from attempting to obtain a written
35 acknowledgement that the resident has been in-
36 formed of the potential risk in being discharged

D. OF R.

COMMITTEE AMENDMENT "A" to S.P. 229, L.D. 591

1 against medical advice.

2 F. Each contract or agreement shall contain a
3 provision which provides for at least 30 days'
4 notice prior to any changes in rates and charges,
5 responsibilities, services to be provided or any
6 other items included in the contract or agree-
7 ment.

8 G. No contract or agreement may require the res-
9 ident to authorize the facility or its staff to
10 manage, hold or otherwise control the income or
11 other assets of a resident.

12 H. No contract or agreement may contain any pro-
13 visions which restrict or limit the ability of a
14 resident to apply for and receive Medicaid or
15 which require a specified period of residency
16 prior to applying for Medicaid. The resident may
17 be required to notify the facility when an appli-
18 cation for Medicaid has been made. No contract
19 or agreement may require a deposit or other pre-
20 payment from Medicaid recipients. No contract or
21 agreement may refuse to accept retroactive
22 Medicaid benefits.

23 I. No contract or agreement may contain a provi-
24 sion which provides for the payment of attorneys'
25 fees or any other cost of collecting payments
26 from the resident.

27 3. Other contract provisions. The contract or
28 agreement may contain any other provisions which do
29 not violate state law or rule or federal law or regu-
30 lation.

31 §1827. Photographs of nursing home residents

32 A nursing home may require an identification pho-
33 tograph of each resident. Photographs may not be
34 used for any other purpose without the permission of
35 the resident for each specific use. The permission

