

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 728

S.P. 269

Received by the Secretary, February 20, 1991

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

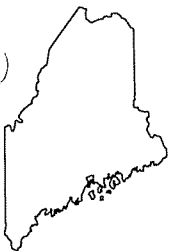
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GILL of Cumberland
Cosponsored by Representative CLARK of Brunswick and Senator BERUBE of
Androscoggin.

STATE OF MAINE

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

An Act Pertaining to the Licensing of Boarding Care Facilities.



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

2
3 Sec. 1. 22 MRSA §7802, sub-§2, ¶B, as amended by PL 1983, c.
4 602, §1, is further amended to read:

6 B. The terms of full licenses or approvals shall ~~be~~ are as
7 follows.

8
9 (1) Except as provided in subparagraphs (2) and (3),
10 the term of all full licenses and approvals issued
11 pursuant to this chapter shall ~~be~~ is for one year or
12 the remaining period of a conditional or provisional
13 license that has been issued for less than one year.

14 (2) The term of a residential child care facility
15 license shall ~~be~~ is for 2 years.

16 (3) The term of a drug treatment center license may be
17 for either one or 2 years.

18
19 Sec. 2. 22 MRSA §7905, sub-§1, as amended by PL 1985, c. 770,
20 §11, is further amended to read:

21
22 1. **Permission to manage personal funds.** No operator or
23 agent of any boarding care facility shall ~~may~~ manage, hold or
24 deposit in a financial institution the personal funds of any
25 resident of the facility, unless the operator or agent has
26 received written permission therefor from:

27
28 A. The resident, if the resident ~~is not mentally retarded~~
29 and has no guardian, trustee or conservator;

30
31 B. The resident's guardian, trustee or conservator, if such
32 that person exists and can be reached; or

33
34 C. The department, if a guardian, trustee or conservator
35 exists, but cannot can not be reached, ~~or, in the case of a~~
36 ~~mentally retarded resident, if such resident has no~~
37 ~~guardian, trustee or conservator.~~

38
39 ~~Whenever the department gives written permission to an operator~~
40 ~~or agent to manage, hold or deposit the personal funds of any~~
41 ~~mentally retarded residents, the department may request the~~
42 ~~Bureau of Mental Retardation, Department of Mental Health and~~
43 ~~Mental Retardation, to develop, insofar as resources are~~
44 ~~available, an appropriate plan for the management of these~~
45 ~~funds.~~

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47 Sec. 3. 22 MRSA §7905, sub-§3, as enacted by PL 1975, c. 719,
48 §6, is amended to read:

2 **3. Depositing personal funds.** The department may require an
operator or agent of a boarding care facility to deposit in a
4 financial institution the personal funds of a resident, if the
resident has a guardian, trustee or conservator who can not be
6 reached.

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

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

12 **Sec. 4. 22 MRSA §7922, sub-§1,** as enacted by PL 1981, c. 445,
14 is amended to read:

16 **1. Long-term care facility.** "Long-term care facility" means
any boarding care facility home licensed pursuant to chapters
18 1663 and 1665, and any skilled nursing or intermediate care
facility or unit licensed pursuant to chapter 405.

20 **Sec. 5. 22 MRSA § 7923, sub-§§1 and 3,** as enacted by PL 1981,
22 c. 445, are amended to read:

24 **1. Establishment; composition.** Each long-term care facility
of ~~7 or more beds~~ shall inform residents of their right to
26 establish a council. This information shall must be given to all
residents and a family member or designated representative for
28 those residents on admission and shall must be posted prominently
in the facility.

30 The administrator shall assist residents in establishing a
32 residents' council, if the residents choose to establish one. If
there is no council, at least once each year residents shall must
34 be given the choice to establish one. A majority vote shall
prevail prevails.

36 The council shall draw up bylaws. The council may meet as often
38 as specified in the bylaws, but at least quarterly. No employee
or representative of the facility may be a member of the council.
40 Family members may sit on the council, but shall may not be
members.

42 **3. Assistance.** The Except as provided in this subsection,
44 the administrator shall designate a staff member, not related to
the administrator, to assist the residents' council. In small
46 long-term care facilities in which no staff members are unrelated
to the administrator or owner of the facility, the administrator
48 may designate a staff member who is related to the administrator.

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STATEMENT OF FACT

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This bill incorporates several amendments to the requirements for licensing adult boarding care facilities. It eliminates language that permitted the Department of Human Services to treat the personal funds of residents with mental retardation differently when those persons have not been adjudicated incompetent.

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The bill extends the right to form a resident council to all residents in boarding homes, regardless of the number of beds. Previously, only homes with 7 or more beds were required to notify residents of their right to form a resident council. This bill allows relatives of the administrator to assist in the formation of a resident council when there are no unrelated employees.

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The bill allows the Department of Human Services to convert a conditional license, which in some cases may have been issued for less than one year, to a full license, provided the period covered by both licenses combined does not exceed one year. Presently, a conditional license covers any period of time up to one year, and a subsequent full license must be issued for a full year. This procedure unnecessarily disrupts the annual survey schedules of the facilities.