

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1454

S.P. 550

In Senate, April 11, 1991

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLARK of Cumberland

Cosponsored by Representative MANNING of Portland, Representative TREAT of Gardiner
and Representative CONSTANTINE of Bar Harbor.

STATE OF MAINE

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

An Act to Amend the Laws Relating to the Long-term Care Ombudsman
Program.



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

22 MRSA §5112, sub-§2, as amended by PL 1989, c. 679, §3, is repealed and the following enacted in its place:

2. Advocate. Serve as an advocate on behalf of older people promoting and assisting activities designed to enhance at the national, state and community levels the well-being of older people. The committee shall serve as an ombudsman on behalf of individual citizens and older people as a class in matters under the jurisdiction of State Government. The committee shall be a voice on behalf of older people to officers of State Government, the Governor, the Legislature, the public-at-large and the Federal Government.

In order to serve as advocate and ombudsman for older people, the committee, staff and volunteers shall have the power to enter onto the premises of any boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817. The committee, staff and volunteers shall visit, talk with and make personal, social and legal services available to residents; inform residents of their rights, entitlements and obligations under federal and state laws by means of educational materials, discussion with groups or individuals; assist residents in asserting their legal rights regarding claims for public assistance, medical care and social security benefits, or assist residents in action against agencies responsible for those programs, as well as in all other matters in which residents are aggrieved and that assistance may include advising litigation; and investigate complaints received from residents or concerned parties regarding the resident's care or any other concerns.

Information or records maintained by the committee relating to complaints may not be disclosed unless the ombudsman authorizes the disclosure. The ombudsman may not disclose the identity of any complainant or resident unless:

A. The complainant or the resident, or a legal representative of either, consents in writing to the disclosure; or

B. A court orders the disclosure.

A complainant or resident, or legal representative of a complainant or resident, in providing the consent may specify to whom the identity may be disclosed and for what purposes and in that event no other disclosure is authorized.

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this subsection, or investigates that complaint or provides access to

2 those persons carrying out the investigation concerning an act or
3 practice in any licensed boarding care facility or any licensed
4 nursing home licensed according to section 1817, 5154 or 7801 or
5 who participates in a judicial proceeding resulting from that
6 complaint, is immune from any civil or criminal liability that
7 otherwise might result by reason of these actions. For the
8 purpose of any civil or criminal proceedings, there is a
9 rebuttable presumption that any person acting pursuant to this
10 subsection did so in good faith;

12 STATEMENT OF FACT

14 This bill amends the laws pertaining to long-term care for
16 older people by giving staff and volunteers the authority to talk
18 with the patients, inform them of their rights and help them in
asserting their legal rights.