

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2225

H.P. 1578

House of Representatives, January 27, 1992

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 "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PENDEXTER of Scarborough.
Cosponsored by Representative GEAN of Alfred, Senator GILL of Cumberland and Senator BERUBE of Androscoggin.

STATE OF MAINE

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

**An Act to Make Further Distinctions between Types of Boarding Care
Facilities.**

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

2
3
4 Sec. 1. 22 MRSA §2491, sub-§6, as enacted by PL 1975, c. 496,
§3, is amended to read:

6 6. Eating and lodging places or lodging place. "Eating and
7 lodging place or lodging place" means every building or structure
8 or any part thereof kept, used as, maintained as, advertised as
9 or held out to the public to be a place where eating and sleeping
10 or sleeping accommodations are furnished to the public as a
11 business on a temporary or transient basis, such as hotels,
12 motels, guest homes and cottages.

14 Sec. 2. 22 MRSA §7802, sub-§1, as amended by PL 1985, c. 706,
15 §1, is further amended to read:

16 1. Types of license or approval. The department shall issue
17 the following types of licenses.

20 A. A provisional license or approval shall must be issued
21 by the department to an applicant who:

22 (1) Has not previously operated the facility for which
23 the application is made or is licensed or approved but
24 has not operated during the term of that license or
25 approval;

26 (2) Complies with all applicable laws and rules,
27 except those which that can only be complied with once
28 clients are served by the applicant; and

29 (3) Demonstrates the ability to comply with all
30 applicable laws and rules by the end of the provisional
31 license or approval term.

32 B. The department shall issue a full license or approval to
33 an applicant who complies with all applicable laws and rules.

34 C. A conditional license or approval may be issued by the
35 department when the individual or agency fails to comply
36 with applicable law and rules and, in the judgment of the
37 commissioner, the best interest of the public would be so
38 served by issuing a conditional license or approval. The
39 conditional license or approval shall must specify when and
40 what corrections must be made during the term of the
41 conditional license or approval.

42 D. A temporary license to operate a family foster home may
43 be issued on a one-time basis when a preliminary evaluation
44 of the home by the department has determined that the
45

2 applicants are capable of providing foster care, in
3 accordance with applicable laws and rules relating to
4 minimum standards of health, safety and well-being, except
5 that it is not possible to obtain a fire safety inspection
6 in accordance with section 8103 prior to licensure and there
7 are no obvious fire safety violations and, in the judgment
8 of the commissioner, the best interest of the public will be
so served by issuing a temporary license.

10 The department may redistribute expiration dates for new and
11 renewed licenses to provide for comparable distribution of
12 licenses on a quarterly basis throughout the year and shall
13 prorate the fees for licenses with a term less or more than one
14 year. The prescribed fee must accompany the application for a
15 new license or the renewal of a license.

16
17 **Sec. 3. 22 MRSA §7901-A, sub-§3,** as enacted by PL 1985, c.
18 770, §6, is amended to read:

19
20 **3. Boarding care facility.** "Boarding care facility" means
21 a house or other place classified as either an adult foster home
22 or a boarding home which that, for consideration, is maintained
23 wholly or partly for the purposes of providing residents with
24 boarding care as defined in subsection 2. A "boarding care
25 facility" does not include a licensed nursing home or certified
26 elderly congregate housing. "Boarding care facility" also means a
27 building or structure or any part of a building or structure
28 kept, used as, maintained as, advertised as or held out to the
29 public to be a place where eating and sleeping accommodations are
30 furnished to the public other than on a daily, weekly, monthly or
31 seasonal basis, as a permanent or long-term residence. "Boarding
32 care facility" does not include apartment houses or rooming
33 houses where eating accommodations are not provided.

34
35 **Sec. 4. 22 MRSA §7902, sub-§1,** as amended by PL 1989, c. 355,
36 §2, is further amended to read:

37
38 **1. Rules adopted.** The commissioner shall ~~premulgate~~ adopt
39 rules for boarding care facilities, which shall must include but
40 need not be limited to rules pertaining to administration,
41 staffing, the number of residents, the quality of care, the
42 quality of treatment, if applicable, the health and safety of
43 staff and residents, the rights of residents, community
44 relations, the administration of medication, criteria for
45 placement of residents who are 17 years of age or older and under
46 18 years and licensing procedures. There shall must be separate
47 rules ~~premulgated~~ adopted for boarding homes and foster homes.
48 In establishing rules for boarding care facilities, the
department may distinguish between different classes of

2 facilities depending on the type and degree of care required by
3 its residents, if any.

4 In establishing the rules for the administration of medication,
5 the commissioner shall consider, among other factors, the general
6 health of the persons likely to receive medication, including the
7 amount of supervision required of persons who self-medicate, the
8 number of persons served by the facility and the number of
9 persons employed by the facility. In the rules for the
10 administration of medication established for boarding homes, the
11 Department of Human Services shall require unlicensed personnel
12 to have successfully completed a program of training and
13 instruction approved by the department for the administration of
14 medication, which is not limited to in-service training.

16 Sec. 5. 22 MRSA §7904-A, sub-§8 is enacted to read:

18 8. Exceptions to the application of the residential board
19 and care occupancy requirements for boarding care facilities with
20 more than 6 residents. If the department distinguishes between
21 classes of boarding care facilities, the facilities that are
22 classified as providing the least degree of care may be permitted
23 to comply with other sections of the Life Safety Code, as follows:

24 A. Facilities with more than 6 but fewer than 17 residents
25 shall comply with chapters of the Life Safety Code
26 pertaining to lodging and rooming houses; and

27 B. Facilities with 17 or more residents shall comply with
28 the chapters of the Life Safety Code pertaining to hotels
29 and dormitories.

34 STATEMENT OF FACT

36 The purpose of this bill is to establish proper oversight of
37 eating and lodging places that are developed as long-term or
38 permanent residences for the dependent elderly and persons with
39 mental illness and mental retardation. This bill clarifies that
40 eating and lodging facilities that provide permanent or long-term
41 residence require a separate category of licensure under the
42 definition of boarding care facility. Rules developed to govern
43 their operation would be dependent upon the type and degree of
44 care required by their residents, if any. This bill allows
45 license dates for all forms of boarding care facilities to be
46 staggered to permit reasonable adjustment to survey schedules.
47 Finally, fire safety requirements for this new distinct class of
48 boarding homes are outlined.