

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

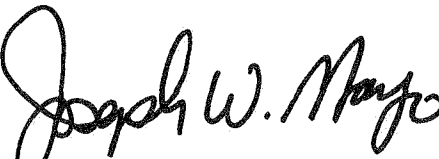
No. 1369

H.P. 989

House of Representatives, March 4, 1997

An Act Concerning Due Process Regarding Certified Nursing Assistants.

Reference to the Committee on Health and Human Services suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BAKER of Bangor.

Cosponsored by Representatives: BROOKS of Winterport, GREEN of Monmouth, HATCH of Skowhegan, MITCHELL of Portland, TOWNSEND of Portland, Senators: CATHCART of Penobscot, PARADIS of Aroostook, PINGREE of Knox.

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

4 **Sec. 1. 22 MRSA §1812-G, sub-§2-A** is enacted to read:

6 2-A. Due process; rules. The department shall adopt rules
7 providing certain due process rights to a certified nursing
8 assistant who is confronted with specific documented findings of
9 abuse, neglect or misrepresentation as provided in paragraph B.
10 These rules must:

11 A. Clarify the definition of abuse;

12 B. Require that a finding of noncriminal abuse be proved by
13 clear and convincing evidence;

14 C. Provide the certified nursing assistant with the right
15 to representation during any employer or outside agency
16 investigation or hearing under this section;

17 D. Require an employer or agency to inform a certified
18 nursing assistant of a right to representation before the
19 start of any questioning relating to an investigation or in
20 any hearing under this section;

21 E. Establish a right to independent binding arbitration for
22 a certified nursing assistant charged under this section; and

23 F. Establish a certified nursing assistant's right to
24 discover specific charges, documents and witnesses relating
25 to a proceeding under this section.

26 Rules adopted pursuant to this subsection are routine technical
27 rules as defined in Title 5, chapter 375, subchapter II-A.

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35 **SUMMARY**

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37 **38** This bill requires the Department of Human Services to adopt
39 rules providing certain due process rights to a certified nursing
40 assistant who is confronted with specific documented findings of
41 abuse, neglect or misappropriation of property under the Maine
42 Revised Statutes, Title 22, section 1812-G. The Department of
43 Human Services is required to:

44 1. Clarify the definition of abuse;

45 2. Prove noncriminal abuse by clear and convincing evidence;

46 3. Provide a right to representation;

2 4. Inform a certified nursing assistant of a right to
representation before any questioning relating to an
investigation;

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6 5. Establish a right to independent binding arbitration for
a certified nursing assistant confronting charges under Title 22,
section 1812-G; and

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10 6. Establish a certified nursing assistant's right to
discover the specific charges, documents and witnesses relating
to a proceeding under Title 22, section 1812-G.