

MAINE STATE LEGISLATURE

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L.D. 2015

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HEALTH AND HUMAN SERVICES

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14 **STATE OF MAINE**
16 **HOUSE OF REPRESENTATIVES**
18 **119TH LEGISLATURE**
20 **FIRST REGULAR SESSION**

22 COMMITTEE AMENDMENT "A" to H.P. 1410, L.D. 2015, Bill, "An
24 Act to Amend the Health Care Receivership Laws"

26 Amend the bill by inserting after the enacting clause and
28 before section 1 the following:

30 'Sec. 1. 22 MRSA §7912-A, sub-§§1 and 2, as amended by PL 1997,
32 c. 728, §11, are further amended to read:

34 **1. General requirements.** The Department of Human Services
36 may permit up to 2 beds in the facility for nonambulatory or
38 mobile nonambulatory residents if the following conditions are
40 met.

42 A. The facility conforms to the residential board and care
44 occupancy section for small facilities of the National Fire
46 Protection Association Life Safety Code, ~~chapter 21,~~ as
48 adopted by the Commissioner of Public Safety. If there is
Facilities with 5 or more beds must be provided with an
interconnected smoke detection system and a direct exit from
the bedroom, the requirement for construction type or a
sprinkler system may be waived must be protected throughout
by an approved automatic sprinkler system.

B. There are no more than 2 mobile nonambulatory or one
nonambulatory and one mobile nonambulatory residents. Any
facility housing more than one nonambulatory resident must
meet the requirements of subsection 2.

C. All nonambulatory and mobile nonambulatory residents
must be housed on the first floor of the facility with

COMMITTEE AMENDMENT

~~direct egress to a common corridor with 2 exits leading directly to the exterior of the facility.~~

D. ~~Facilities with 7 or 8 beds must be ramped to grade at both exits referred to in paragraph C. Facilities with 6 or fewer beds must be ramped to grade at one exit. Facilities with 6 or fewer beds with a nonambulatory resident must be ramped to grade at both exits.~~

E. There must be at least one staff person available on the premises of the facility when any resident is present. Additional staff may be required at night at the direction of the Commissioner of Public Safety.

F. ~~If a facility with 7 or 8 beds is of new construction, any doorway in the path of egress for a nonambulatory or mobile nonambulatory resident must be at least 36 inches in width. If the facility is of existing construction, any doorway in the path of egress for a nonambulatory or mobile nonambulatory resident must be at least 34 inches in width. For facilities with 6 or fewer beds, the requirement for manual alarm activation may be waived at the discretion of the Commissioner of Public Safety.~~

2. Requirements when number of nonambulatory or mobile nonambulatory residents exceeds limits. Residential care facilities may provide services to more residents who are nonambulatory or mobile nonambulatory than allowed under subsection 1 if, in addition to those requirements:

A. The structure meets all the requirements of the residential board and care occupancy section for small facilities of the National Fire Protection Association Life Safety Code, ~~chapter 22 or 23~~ Residential Board and Care chapters. The structure must be ~~of protected wood frame construction unless it is provided with either a National Fire Protection Association Standard No. 13 or a Life Safety~~ protected throughout with an approved sprinkler system. Additional staff may be required at the direction of the Commissioner of Public Safety.

Sec. 2. 22 MRSA §7915, sub-§1, as enacted by PL 1995, c. 670, Pt. A, §12 and affected by Pt. D, §5, is amended to read:

1. Rules; operation of congregate housing services programs. Adopting rules governing the ~~operation of~~ services to be provided under congregate housing services programs paid for with state funds. Rules adopted pursuant to this section are ~~major substantive~~ routine technical rules as defined by Title 5, chapter 375, subchapter II-A;

2 **Sec. 3. 22 MRSA §7923, sub-§2, ¶F**, as enacted by PL 1981, c.
445, is amended to read:

4 F. To notify the Department of Human Services and the Maine
6 Committee--on--Aging long-term care ombudsman when they are
constituted.

8 **Sec. 4. 22 MRSA §7924, sub-§5**, as enacted by PL 1981, c. 445,
10 is amended to read:

12 **5. Construction.** ~~Nothing in this~~ This section shall ~~may~~
14 ~~not~~ be construed to limit the powers or responsibilities of the
~~nursing-home-and-bearding-home~~ long-term care ombudsman.'

16 Further amend the bill by striking out all of section 3 and
18 inserting in its place the following:

20 '**Sec. 3. 22 MRSA §7932, sub-§1-B** is enacted to read:

22 **1-B. End-stage renal disease unit.** "End-stage renal
disease unit" means a facility that provides specialized services
24 to assist individuals who have been diagnosed as having an
irreversible and permanent kidney disease that requires dialysis
or kidney transplantation to maintain life.

26 **Sec. 4. 22 MRSA §7932, sub-§2**, as amended by PL 1999, c. 99,
28 §1, is further amended to read:

30 **2. Facility.** "Facility" means any assisted living facility,
32 residential care facility or congregate housing services program
subject to licensure pursuant to chapters 1663 and 1665, any
34 ~~skilled-nursing-or-intermediate-care~~ nursing facility or unit
subject to licensure pursuant to chapter 405 and any private
36 psychiatric hospital subject to licensure pursuant to chapter 405.

38 **Sec. 5. 22 MRSA §7932, sub-§2-A** is enacted to read:

40 **2-A. General hospital.** "General hospital" means an acute
health care facility with permanent inpatient beds planned,
42 organized, operated and maintained to offer on a continuous basis
facilities and services for the diagnosis and treatment of
44 illness, injury and deformity that has a governing board and an
organized medical staff, offering a continuous 24-hour
46 professional nursing care plan to provide continuous 24-hour
emergency treatment and that includes the following services or
organizational units:

48 A. Administration;
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AWS

COMMITTEE AMENDMENT "A" to H.P. 1410, L.D. 2015

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- B. Nursing services;
- C. Emergency services;
- D. Dietary service;
- E. Medical record service;
- F. Radiology service;
- G. Pathology or clinical laboratory service;
- H. Pharmaceutical service;
- I. Hospital safety program;
- J. Disaster plan; and
- K. Inservice education.

"General hospital" does not mean a federally controlled or state-controlled institution, a community health center, an independent outpatient diagnostic or treatment center, a doctor's office, a college infirmary or an industrial dispensary.'

Further amend the bill by inserting after section 5 the following:

'Sec. 6. 22 MRSA §7932, sub-§7, as enacted by PL 1983, c. 454, is amended to read:

7. **Substantial violation.** "Substantial violation" means a violation of state or federal law which that presents a reasonable likelihood of serious physical or mental harm to residents or clients.'

Further amend the bill by inserting after section 9 the following:

'Sec. 10. 22 MRSA §7942, sub-§3, as amended by PL 1999, c. 99, §2, is further amended to read:

3. **Long-term care facility.** "Long-term care facility" means an assisted living facility or congregate housing services program subject to licensure pursuant to chapters 1663 and 1665 and a skilled nursing or intermediate care facility or unit subject to licensure pursuant to chapter 405.

Sec. 11. 22 MRSA §7942, sub-§7, as enacted by PL 1987, c. 774, §4, is amended to read:

COMMITTEE AMENDMENT

2 7. **State licensing rules.** "State licensing rules" refers
3 to the department's rules governing the licensing and functioning
4 of skilled nursing and ~~intermediate-care~~ facilities, intermediate
5 care facilities for ~~the-mentally-retarded~~ persons with mental
6 retardation and ~~boarding-care~~ assisted living facilities.

8 **Sec. 12. 25 MRSA §2453**, as amended by PL 1973, c. 632, §11,
9 is further amended to read:

10 **§2453. Fire escapes; appeals**

11
12 Each story above the first story of a building used as a
13 schoolhouse, orphan asylum, hospital for the mentally ill,
14 reformatory, opera house, hall for public assemblies, hotel,
15 boardinghouse or lodginghouse accommodating more than 6 persons,
16 or tenement house occupied by more than 2 families, or store in
17 which more than 10 persons are employed above the first story,
18 shall must be provided with more than one way of egress, by
19 stairways on the inside or fire escapes on the outside of such
20 building. Such stairways and fire escapes shall must be so
21 constructed, in such a number, or such size and in such location
22 as to give reasonably safe, adequate and convenient means of
23 exit, in view of the number of persons who may need to use such
24 stairway or fire escape, shall must at all times be kept free
25 from obstruction and shall must be accessible from each room in
26 each story above the first story.

27
28 Any apartment building of 3 stories or less in its entirety
29 is permitted to have a single exit under the condition that the
30 building is protected throughout by an approved automatic
31 sprinkler system, meets the requirements of the applicable
32 chapter of the National Fire Protection Association Life Safety
33 Code 101 and every sleeping room has a 2nd means of escape.

34
35 No ~~An~~ individual, partnership or corporation shall may not
36 offer for sale in this State, any type of fire escape device or
37 fire alarm systems unless first securing approval of the
38 Commissioner of Public Safety.

39
40 Any person or corporation aggrieved by any order of the
41 commissioner issued under this section may appeal to the Superior
42 Court by filing within 30 days from the effective date of such
43 order a complaint ~~therefor~~ and the court shall fix a time and
44 place of hearing and cause notice ~~thereof~~ of the time and place
45 to be given to the commissioner and, after the hearing, the court
46 may affirm or reverse in full or in part any such order of the
47 commissioner and the decision of the court shall ~~be~~ is final. If
48 the commissioner in the interest of public safety, because he
49 deems the commissioner determines there is immediate danger,
50

R. or S.

COMMITTEE AMENDMENT "A" to H.P. 1410, L.D. 2015

2 forbids the use of such buildings for any public purpose until
satisfactory compliance with his the commissioner's order, such
4 order ~~shall become immediately~~ becomes effective immediately and
the filing of the complaint shall may not operate as a stay
thereof.'

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8 Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
10 consecutively.

12 Further amend the bill by inserting at the end before the
summary the following:

14

16 **FISCAL NOTE**

18 This bill may increase the number of receivership cases that
must be reviewed by the courts. The additional workload and
20 administrative costs associated with the minimal number of new
cases filed in the court system can be absorbed within the
22 budgeted resources of the Judicial Department.

24 The Department of Human Services could incur some minor
additional costs by adding to the list of facilities for which
26 the department can exercise its receivership authority. These
costs can be absorbed within the department's existing budgeted
28 resources.'

30

32 **SUMMARY**

This amendment adds the following provisions to the bill.

34

36 1. It provides that rules regarding congregate housing
services programs are routine technical rules.

38 2. It changes references to the Maine Committee on Aging to
the long-term care ombudsman and references to the nursing home
40 and boarding home ombudsman to the long-term care ombudsman.

42 3. It updates definitions of residential care facilities
and congregate housing services programs.

44

46 4. It updates references to residents of long-term care
facilities to include clients of programs.

48 5. It updates references to state licensing rules using the
terms facilities and assisted living facilities.

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COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 1410, L.D. 2015

6. It requires smoke detection and sprinkler systems in residential care facilities.

The amendment also adds a fiscal note to the bill.