

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1197

S.P. 403

In Senate, March 6, 2003

An Act To Preserve the Role of Assisted Living

Reference to the Committee on Health and Human Services 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 MAYO of Sagadahoc.
Cosponsored by Representative KANE of Saco and
Senator: BRENNAN of Cumberland, Representatives: CAMPBELL of Newfield, EARLE of
Damariscotta, LEWIN of Eliot, PERRY of Calais.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 22 MRSA §7801, sub-§1.** as amended by PL 2001, c. 645,
5 §§3 and 4 and corrected by RR 2001, c. 2, Pt. A, §36, is further
6 amended to read:

7 **1. License required.** Except as provided in subsection
8 subsections 3 and 6 or section 7805, a person, firm, corporation
9 or association may not operate any of the following without
10 having, subject to this Subtitle and to the rules adopted by the
11 department under this Subtitle, a written license from the
12 department:

13 A. A residential care facility;

14 A-1. In accordance with subparagraphs ~~--(1)-- and --(2)--~~,
15 subsection 6, an assisted housing program ~~either directly or~~
16 ~~by contract providing to its residents any of the following~~
17 ~~services:--personal-care-assistance,--the-administration-of~~
18 ~~medication-or-nursing-services.~~

19 (1) ~~An assisted housing program may directly provide~~
20 ~~to its residents meals,--housekeeping--and--chore~~
21 ~~assistance,--case--management--and--personal--care~~
22 ~~assistance-delivered-on-the-site-of-congregate-housing~~
23 ~~without-obtaining-a-separate-license-to-do-so.~~

24 (2) ~~An assisted housing program licensee may hold at~~
25 ~~any one-time-only one license under this subsection.--A~~
26 ~~qualified-assisted-housing-program-may-obtain-a-license~~
27 ~~for-a-different-category-under-this-subsection,--upon~~
28 ~~application-and-surrender-of-the-previous-license;~~

29 B. A drug treatment center;

30 C. A children's home;

31 D. A child placing agency;

32 E. A child care facility licensed under section 8301-A,
33 subsection 2; or

34 G. An adult day care program.

35 **Sec. 2. 22 MRSA §7801, sub-§6** is enacted to read:

36 **6. Assisted housing programs.** Licensure for assisted
37 housing programs is subject to subsection 1 and this subsection.
38

2 A. Licensure for assisted housing programs must be
4 available by category of housing and services provided,
designated by type of housing and level of services provided
to the resident.

6 B. An assisted housing program may hold at any one time
8 only one license.

10 C. A licensed assisted housing program may apply for
12 licensure under a different category of service, receive
approval for that level and surrender the previous license.

14 D. Beginning October 15, 2003, in accordance with section
16 7802, subsection 1, paragraph F, licensure for the legal
18 entity providing all assisted housing services except
20 housing is available from the department. In applying for
22 this type of license, the applicant shall provide
documentation to the department of a legal relationship with
the owner of the private apartments in which the housing
will be provided. This paragraph does not apply to the
provision of housing and services by a residential care
facility.

24 **Sec. 3. 22 MRSA §7802, sub-§1, ¶F** is enacted to read:

26 F. Beginning October 15, 2003, the department may issue a
28 license to a legal entity that offers all assisted housing
30 services except housing in accordance with section 7801,
32 subsection 6, paragraph D. In applying for this type of
34 license, the applicant shall provide documentation to the
department of a legal relationship with the owner of the
private apartments in which the housing will be provided.
This paragraph does not apply to the provision of housing
and services by a residential care facility.

36 **Sec. 4. 22 MRSA §7853, sub-§5,** as enacted by PL 2001, c. 596,
38 Pt. A, §1 and affected by Pt. B, §25, is repealed.

40 **Sec. 5. 22 MRSA §7853, sub-§6,** as enacted by PL 2001, c. 596,
Pt. A, §1 and affected by Pt. B, §25, is amended to read:

42 **6. Applicability of residents' rights rules.** Any rules
44 adopted pursuant to this section pertaining to residents' rights
46 are applicable to independent housing with services programs and
48 assisted living programs. As applicable to an assisted housing
program that is licensed to provide all services except housing,
in accordance with section 7801, subsection 6 and section 7802,
subsection 1, paragraph F, the rules apply only to the services
for which the assisted housing program is licensed and do not

2 apply to the obligations, rights and responsibilities of the
3 owner of the apartments in which the assisted housing program is
4 provided or the obligations, rights and responsibilities of the
5 resident.

6 **Sec. 6. 22 MRSA §7853, sub-§7** is enacted to read:

7 **7. Standards for rules.** The commissioner shall adopt rules
8 for independent housing with services programs, assisted living
9 programs and residential care facilities. Rules adopted pursuant
10 to this subsection are major substantive rules as defined in
11 Title 5, chapter 375, subchapter 2-A. The rules must:

12 A. Ensure quality of housing and services;

13 B. Promote efficiency in the provision of housing and
14 services;

15 C. Recognize the different housing settings and level of
16 services provided by the licensee and:

17 (1) Adapt the rule requirements according to the
18 housing settings and level of services;

19 (2) Provide levels of personal supervision that
20 accommodate the level of services offered by the
21 assisted housing program and the needs of the residents
22 of the housing; and

23 (3) As applicable to an assisted housing program that
24 is licensed to provide all services except housing, in
25 accordance with section 7801, subsection 6 and section
26 7802, subsection 1, paragraph F, apply only to the
27 services for which the assisted housing program is
28 licensed and may not apply to the obligations, rights
29 and responsibilities of the owner of the apartments in
30 which the assisted housing program is provided or the
31 obligations, rights and responsibilities of the
32 resident;

33 D. Permit staffing in assisted living programs to be shared
34 with nursing facilities pursuant to section 1812-C,
35 subsection 6-A and with residential care facilities pursuant
36 to section 7860;

37 E. Permit licensure pursuant to section 7801, subsection 6,
38 paragraph D and section 7802, subsection 1, paragraph F;

39 F. Require clear disclosure to applicants and residents of
40 the services that are provided by the assisted housing
41 program;

2 program and of the obligations, rights and responsibilities
3 of the resident, the provider of services and the owner of
4 the apartment building;

5 G. Require the provider of services and the owner of the
6 apartment building to give notice to all applicants and
7 residents of the following:

8
9 (1) The name and contact information for the long-term
10 care ombudsman program, established pursuant to section
11 5106, subsection 11-C; and

12 (2) The name and contact information for a legal
13 services assistance agency; and

14
15 H. Permit categorical eligibility for other programs of
16 assistance available from the department for a resident of
17 an assisted housing program for services not provided by the
18 assisted housing program.

22 SUMMARY

23
24 This bill provides a new type of licensure for the legal
25 entities providing all assisted housing services except for the
26 housing component in an assisted housing program. This license
27 would be available from the Department of Human Services. This
28 bill rewrites the standards for rules for assisted housing
29 programs, including those that would be available under the new
30 category of licensure.