

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1753

H.P. 1275

House of Representatives, December 22, 2003

An Act To Improve the Quality and Safety in the Delivery of Personal Care Services

Submitted by the Department of Human Services pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative ANDREWS of York.

Cosponsored by Representatives: BULL of Freeport, GERZOFKY of Brunswick, MILLS of Farmington, NORBERT of Portland, SIMPSON of Auburn, WALCOTT of Lewiston, Senator: MAYO of Sagadahoc.

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

4 **Sec. 1. 22 MRSA §1717, sub-§3**, as enacted by PL 1997, c. 716,
§1, is repealed and the following enacted in its place:

6 **3. Prohibited employment.** A personal care agency shall
8 obtain criminal history record information about and may not hire
10 an individual as one of its unlicensed assistive personnel if
12 that individual:

14 A. Has worked as a certified nursing assistant and has been
16 the subject of an annotation by the state survey agency for
18 a substantiated complaint of abuse, neglect or
20 misappropriation of property in a health care setting that
22 was entered on the Maine Registry of Certified Nursing
24 Assistants;

26 B. Has been convicted in a court of law of a crime
28 involving abuse, neglect or misappropriation of property in
30 a health care setting; or

32 C. Has a prior criminal conviction within the last 10 years
34 of:

36 (1) A crime for which incarceration of 3 years or more
38 may be imposed under the laws of the state in which the
40 conviction occurred; or

42 (2) A crime for which incarceration of less than 3
44 years may be imposed under the laws of the state in
46 which the conviction occurred involving sexual
48 misconduct or involving abuse, neglect or exploitation
in a setting other than a health care setting.

Sec. 2. 22 MRSA §7851, sub-§4 is enacted to read:

36 **4. Prohibited employment.** An assisted housing program
38 shall obtain criminal history record information about and may
40 not hire an individual as one of its unlicensed assistive
42 personnel as defined in section 1717, subsection 1, paragraph D
44 if that individual:

46 A. Has worked as a certified nursing assistant and has been
48 the subject of an annotation by the state survey agency for
a substantiated complaint of abuse, neglect or
misappropriation of property in a health care setting that
was entered on the Maine Registry of Certified Nursing
Assistants;

2 B. Has been convicted in a court of law of a crime
involving abuse, neglect or misappropriation of property in
4 a health care setting; or

6 C. Has a prior criminal conviction within the last 10 years
of:

8 (1) A crime for which incarceration of 3 years or more
10 may be imposed under the laws of the state in which the
conviction occurred; or

12 (2) A crime for which incarceration of less than 3
14 years may be imposed under the laws of the state in
16 which the conviction occurred involving sexual
misconduct or involving abuse, neglect or exploitation
in a setting other than a health care setting.

18 **Sec. 3. 22 MRSA §8606** is enacted to read:

20 **§8606. Prohibited employment**

22 An adult day care program shall obtain criminal history
24 record information about and may not hire an individual as one of
its unlicensed assistive personnel as defined in section 1717,
26 subsection 1, paragraph D if that individual:

28 1. Subject of annotation. Has worked as a certified
30 nursing assistant and has been the subject of an annotation by
the state survey agency for a substantiated complaint of abuse,
32 neglect or misappropriation of property in a health care setting
that was entered on the Maine Registry of Certified Nursing
Assistants;

34 2. Convicted of crime involving abuse, neglect or
36 misappropriation of property in health care setting. Has been
convicted in a court of law of a crime involving abuse, neglect
38 or misappropriation of property in a health care setting; or

40 3. Other crimes. Has a prior criminal conviction within
the last 10 years of:

42 A. A crime for which incarceration of 3 years or more may
44 be imposed under the laws of the state in which the
conviction occurred; or

46 B. A crime for which incarceration of less than 3 years may
48 be imposed under the laws of the state in which the
conviction occurred involving sexual misconduct or involving
50 abuse, neglect or exploitation in a setting other than a
health care setting.

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SUMMARY

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6 This bill requires personal care agencies, adult day care
8 programs and assisted housing programs to obtain criminal history
10 record information and prohibits these entities from hiring
12 individuals as unlicensed assistive personnel if those
individuals have been the subject of a complaint of abuse,
neglect or misappropriation of property that has been
substantiated by the state survey agency or have been convicted
of certain crimes.