

MAINE STATE LEGISLATURE

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Date: 05-16-07

(Filing No. S-117)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE

SENATE

123RD LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 112, L.D. 339, Bill, "An Act To Prevent Inappropriate Transfers of Residents of Nursing Facilities"

Amend the bill by striking out the title and substituting the following:

'Resolve, To Ensure Proper Levels of Care for the Elderly and the Disabled'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain disabled persons are living in inappropriate institutional settings, often at significant emotional costs to them and their families and at significant financial cost to the State; and

Whereas, the Legislature believes that suitable alternative living arrangements are available or can be made reasonably available within existing resources; and

Whereas, the Legislature believes that other individuals who could be maintained in their current living arrangements if appropriate supports and education were provided are unnecessarily transferred to more restrictive settings; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Assessment process. Resolved: That, within available resources, the Department of Health and Human Services shall establish an ongoing process to assess the medically necessary physical, cognitive and behavioral needs of adult MaineCare members living in out-of-state facilities or living in state nursing or hospital facilities, including psychiatric hospitals and units, who could benefit from a less restrictive level of

COMMITTEE AMENDMENT

1 care but who have been unable to locate appropriate services because they have complex
2 medical needs such as ventilator care or complex behavioral health needs; and be it
3 further

4 **Sec. 2. Planning for services. Resolved:** That the Department of Health and
5 Human Services shall plan for appropriate and medically necessary physical, cognitive
6 and behavioral services within available resources, including residential and supportive
7 services, so that individuals who are inappropriately placed, if they choose, may live in
8 the least restrictive setting that meets their medical, physical, cognitive and behavioral
9 needs. This planning must include a process for individualized planning that includes the
10 hospital patient or nursing home resident, a guardian or other representative,
11 representatives of the hospital or nursing facility, the assigned case manager and an
12 appropriate representative of the Department of Health and Human Services; and be it
13 further

14 **Sec. 3. Positive behavioral support training. Resolved:** That the
15 Department of Health and Human Services shall work with interested parties to determine
16 specific additions to the curriculum for positive behavioral support training for all long-
17 term care settings as developed by the department and the Joint Advisory Committee on
18 Select Services for Older Persons and to determine how this training can be delivered
19 within available resources; and be it further

20 **Sec. 4. Discussions among stakeholders. Resolved:** That the Department of
21 Health and Human Services shall facilitate discussions among the stakeholders with the
22 following goals:

23 1. Creating useable procedures for transferring individuals between hospitals and
24 nonhospital settings;

25 2. Developing an improved process for mutual clinical assistance and support when
26 necessary; and

27 3. Reviewing and modifying, if necessary, the rules regarding the written notices
28 provided to residents to ensure that they are adequately informed about the reasons for
29 transfer, discharge or denial of admission or readmission; and be it further

30 **Sec. 5. Process. Resolved:** That the Department of Health and Human Services
31 shall establish or collaborate with an appropriate working group that includes advocates
32 and providers to ensure that the activities in sections 1 to 4 take place in a timely manner.
33 The Department of Health and Human Services shall share with the working group data
34 and information that is not personally identifiable collected through the planning process.
35 The Department of Health and Human Services shall complete the assessment and
36 planning process for individuals who currently meet the criteria in section 1 no later than
37 October 1, 2007; and be it further

38 **Sec. 6. Report. Resolved:** That, by November 1, 2007, the Department of Health
39 and Human Services shall report to the Joint Standing Committee on Health and Human
40 Services on the progress made to implement this resolve. This report must recount the
41 activities to date and identify any needs to be addressed. The joint standing committee is
42 authorized to submit legislation that it determines necessary to further the intent of this
43 resolve to the Second Regular Session of the 123rd Legislature.



Approved: 05/11/07 *MAC*

123rd MAINE LEGISLATURE

LD 339

LR 2072(02)

An Act To Prevent Inappropriate Transfers of Residents of Nursing Facilities

Fiscal Note for Bill as Amended by Committee Amendment "A "

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs incurred by the Department of Health and Human Services in implementing this bill can be absorbed by the department utilizing existing budget resources.