

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1615

S.P. 653

In Senate, March 1, 2016

**Resolve, To Establish the Commission To Continue the Study of
Difficult-to-place Patients**

(EMERGENCY)

Reported by Senator BRAKEY of Androscoggin for the Joint Standing Committee on Health and Human Services pursuant to Joint Order 2016, S.P. 639.

Reference to the Committee on Health and Human Services suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

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

3 **Whereas,** the Commission To Study Difficult-to-place Patients, established
4 pursuant to Resolve 2015, chapter 44, reviewed and deliberated on numerous issues
5 related to difficult-to-place patients with complex medical conditions and the feasibility
6 of making policy changes to the long-term care system for those patients; and

7 **Whereas,** this resolve establishes the Commission To Continue the Study of
8 Difficult-to-place Patients to address various complex, important and unresolved issues
9 identified by the Commission To Study Difficult-to-place Patients; and

10 **Whereas,** immediate enactment of this resolve is necessary to provide the
11 Commission To Continue the Study of Difficult-to-place Patients adequate time to
12 complete its work; and

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

17 **Sec. 1. Commission established. Resolved:** That, notwithstanding Joint Rule
18 353, the Commission To Continue the Study of Difficult-to-place Patients, referred to in
19 this resolve as "the commission," is established; and be it further

20 **Sec. 2. Commission membership. Resolved:** That the commission consists of
21 13 members appointed as follows:

22 1. Two members of the Senate appointed by the President of the Senate, including
23 members from each of the 2 parties holding the largest number of seats in the Legislature;

24 2. Three members of the House of Representatives appointed by the Speaker of the
25 House of Representatives, including members from each of the 2 parties holding the
26 largest number of seats in the Legislature;

27 3. The Commissioner of Health and Human Services or the commissioner's designee;

28 4. Four members, appointed by the President of the Senate, who possess expertise in
29 the subject matter of the study, as follows:

30 A. The director of the long-term care ombudsman program described under the
31 Maine Revised Statutes, Title 22, section 5106, subsection 11-C;

32 B. An individual representing a statewide association of hospitals;

33 C. An individual representing a statewide organization advocating for people with
34 mental illness; and

35 D. An individual or a family member of an individual with a complex medical
36 condition; and

1 5. Three members, appointed by the Speaker of the House of Representatives, who
2 possess expertise in the subject matter of the study, as follows:

3 A. An individual representing a statewide association of long-term care facilities;

4 B. An individual representing the agency that serves as the protection and advocacy
5 agency for persons with disabilities designated pursuant to the Maine Revised
6 Statutes, Title 5, chapter 511; and

7 C. An individual representing an organization promoting independent living for
8 persons with disabilities; and be it further

9 **Sec. 3. Chairs; subcommittees. Resolved:** That the first-named Senate
10 member is the Senate chair and the first-named House of Representatives member is the
11 House chair of the commission. The chairs of the commission are authorized to establish
12 subcommittees to work on the duties listed in section 5 and to assist the commission.
13 Any subcommittees established by the chairs must be composed of members of the
14 commission and interested persons who are not members of the commission and who
15 volunteer to serve on the subcommittees without reimbursement. Interested persons may
16 include individuals with expertise in placing individuals with complex medical conditions
17 in long-term care placements, individuals who provide long-term care to individuals with
18 complex medical conditions, individuals affected by neurodegenerative diseases and
19 individuals affected by mental illness; and be it further

20 **Sec. 4. Appointments; convening of commission. Resolved:** That all
21 appointments must be made no later than 30 days following the effective date of this
22 resolve. The appointing authorities shall notify the Executive Director of the Legislative
23 Council once all appointments have been completed. After appointment of all members
24 and after adjournment of the Second Regular Session of the 127th Legislature, the chairs
25 shall call and convene the first meeting of the commission. If 30 days or more after the
26 effective date of this resolve a majority of but not all appointments have been made, the
27 chairs may request authority and the Legislative Council may grant authority for the
28 commission to meet and conduct its business; and be it further

29 **Sec. 5. Duties. Resolved:** That the commission shall study the following issues
30 and the feasibility of making policy changes to the long-term care system for patients
31 with complex medical conditions:

32 1. With input from the Department of Labor, identification of medical staffing needs
33 in the State and the barriers to, and solutions for, increasing the availability of trained
34 staff across the spectrum of care;

35 2. With input from the Department of Health and Human Services and the State
36 Board of Nursing, as established in the Maine Revised Statutes, Title 5, section 12004-A,
37 subsection 25, examination of the feasibility of implementing in-house staff certification
38 programs by medical providers, such as a certified nursing assistant training program;

39 3. Determination of existing capacity and demand for additional capacity in private
40 nonmedical institutions in the State governed by Department of Health and Human
41 Services Rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97,

1 Appendix C and options to expand or reconfigure the State's Appendix C private
2 nonmedical institution system to better meet identified demands;

3 4. Examination of the feasibility of implementing a presumptive eligibility option
4 whereby a medical facility would be authorized to presume a patient's eligibility for the
5 MaineCare program and receive reimbursement for the patient's eligible care costs prior
6 to final approval of eligibility by the Department of Health and Human Services;

7 5. Identification of efficiencies that can be implemented to expedite the MaineCare
8 application process for patients currently being cared for in a facility;

9 6. Review of options for amending the MaineCare application process to better
10 address financial exploitation of an applicant by a family member or relative of the
11 applicant;

12 7. Examination of methods of expediting the Department of Health and Human
13 Services' placement process for open geropsychiatric beds, including a review of the
14 application of the preadmission screening and resident review process within the
15 placement process and the application of the geropsychiatric placement criterion that a
16 patient have a long history of mental illness;

17 8. Determination of existing need for so-called step-down options for geropsychiatric
18 and other patients who no longer require the level or type of care they are receiving at a
19 specialized facility, as well as addressing issues relating to geropsychiatric patients that
20 develop dementia, expansion of residential care options at facilities that offer
21 geropsychiatric services and a discussion of applicable assessment criteria for admission
22 and discharge at geropsychiatric facilities;

23 9. Evaluation of the feasibility of facilitating and funding long-term care contracts
24 for behavioral health support at long-term care facilities for care plan consultations,
25 treatment and staff education;

26 10. Review of the Department of Health and Human Services' adult protective
27 services and public guardianship processes to identify efficiencies that can be
28 implemented to facilitate more expedient resolutions and to evaluate, with input from
29 representatives of the State's judiciary, the feasibility of implementing a temporary
30 guardianship process to facilitate hospital discharge for patients awaiting guardianship;
31 and

32 11. Any other issue identified by the commission; and be it further

33 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
34 necessary staffing services to the commission; and be it further

35 **Sec. 7. Information and assistance. Resolved:** That the Commissioner of
36 Health and Human Services shall provide information and assistance to the commission
37 as required for its duties; and be it further

38 **Sec. 8. Report. Resolved:** That, no later than December 15, 2016, the
39 commission shall submit a report that includes its findings and recommendations,

1 including suggested legislation, for presentation to the joint standing committee of the
2 Legislature having jurisdiction over health and human services matters. The joint
3 standing committee of the Legislature having jurisdiction over health and human services
4 matters may report out legislation regarding the subject matter of the report to the First
5 Regular Session of the 128th Legislature.

6 **Emergency clause.** In view of the emergency cited in the preamble, this
7 legislation takes effect when approved.

8 **SUMMARY**

9 This resolve, which is a recommendation of the Commission To Study Difficult-to-
10 place Patients, establishes the Commission To Continue the Study of Difficult-to-place
11 Patients. The commission is charged with studying certain issues related to patients with
12 complex medical conditions and the feasibility of making policy changes to the long-term
13 care system for those patients. The commission comprises 13 members reflecting a
14 similar membership to that of the Commission To Study Difficult-to-place Patients. The
15 commission is required to submit a report containing its findings and recommendations to
16 the joint standing committee of the Legislature having jurisdiction over health and human
17 services matters no later than December 15, 2016. The committee is authorized to report
18 out legislation to the First Regular Session of the 128th Legislature.