

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1577

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H.P. 1139

House of Representatives, April 16, 2019

### **An Act To Assist Nursing Homes in the Management of Facility Beds**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative PERRY of Calais.

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

2 **Sec. 1. 22 MRSA §333, sub-§1**, as amended by PL 2011, c. 648, §2, is further  
3 amended to read:

4 **1. Procedures.** A nursing facility that voluntarily reduces the number of its licensed  
5 beds ~~at any time prior to July 1, 2007~~, for any reason ~~except to create private rooms~~ may  
6 convert the beds back and thereby increase the number of nursing facility beds to no more  
7 than the previously licensed number of nursing facility beds, after obtaining a certificate  
8 of need in accordance with this section, as long as the nursing facility has been in  
9 continuous operation without material change of ownership. For purposes of this section  
10 and sections 333-A and 334-A, beds voluntarily removed from service ~~prior to July 1,~~  
11 ~~2007~~ and available to be reinstated under this section are referred to as "reserved beds."  
12 Reserved beds remain facility property until they lapse as provided for in this section or  
13 are transferred. To reinstate reserved beds under this subsection, the nursing facility ~~must~~  
14 shall:

15 A. Give notice of the number of beds it is reserving no later than 30 days after the  
16 effective date of the license reduction;

17 A-1. Annually provide notice to the department no later than July 1st of each year of  
18 the nursing facility's intent to retain these reserved beds, subject to the limitations set  
19 forth in subsection 2, paragraph B. Notice provided under this paragraph preserves  
20 the reserved beds through June 30th of the following year. The annual notice on  
21 reserved beds may be filed by an individual nursing facility or by multiple nursing  
22 facilities through a membership organization approved by the department by a single  
23 filing; and

24 B. Obtain a certificate of need to convert beds back under section 335, except that, if  
25 no construction is required for the conversion of beds back, the application must be  
26 processed in accordance with subsection 2. The department in its review shall  
27 evaluate the impact that the nursing facility beds to be converted back would have on  
28 those existing nursing facility beds and facilities within 30 miles of the applicant's  
29 facility and shall determine whether to approve the request based on current  
30 certificate of need criteria and methodology.

31 **Sec. 2. 22 MRSA §333, sub-§2, ¶A**, as enacted by PL 2001, c. 664, §2, is  
32 amended to read:

33 A. Review of applications that meet the requirements of this section must be based  
34 on the requirements of section 335, subsection 7, except that ~~the determinations~~  
35 ~~required by section 335, subsection 7, paragraph B must be based on the historical~~  
36 ~~costs of operating the beds and must consider whether the projected costs are~~  
37 ~~consistent with the costs of the beds prior to closure, adjusted for inflation~~  
38 applications that seek to reopen reserved beds must be approved if the projected  
39 incremental costs of reopening and operating the reserved beds are consistent with  
40 the facility's costs of operating its other beds. Applicants are not required to  
41 demonstrate that any increases in MaineCare costs are offset by other MaineCare  
42 savings. The costs of ongoing operation of both the reopened beds and the  
43 complement of facility beds at the time the reserved beds are reopened must be

1 recognized as allowable costs and incorporated into the facility's MaineCare payment  
2 rates; and

3 **Sec. 3. 22 MRSA §1720**, as enacted by PL 2005, c. 242, §1, is amended to read:

4 **§1720. Nursing facility medical director reimbursement**

5 The department shall include in its calculation of reimbursement for services  
6 provided by a nursing facility ~~an allowance for the cost of~~ incurred by the facility for a  
7 ~~medical director in a base year amount not to exceed \$10,000, with that amount being~~  
8 ~~subject to an annual cost-of-living adjustment.~~

9 **Sec. 4. Cost of computer and cloud-based software systems a fixed cost.**

10 Beginning October 1, 2019, the cost incurred by a nursing facility for the acquisition,  
11 including set-up costs, use and maintenance, of computer or cloud-based software  
12 systems must be included as a fixed cost by the Department of Health and Human  
13 Services in its rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67,  
14 Principles of Reimbursement for Nursing Facilities. Costs included pursuant to this  
15 section must include without limitation the costs of hardware, if any, software and  
16 software support.

17 **Sec. 5. Bed hold reimbursement for adult family care services.**

18 The Department of Health and Human Services shall amend its rule Chapter 101: MaineCare  
19 Benefits Manual, Chapter III, Section 2, Adult Family Care Services, no later than  
20 December 15, 2019 to provide reimbursement for up to 30 bed hold days per calendar  
21 year when the resident is absent from the facility.

22 **Sec. 6. Cost of health insurance a fixed cost.**

23 The Department of Health and Human Services shall amend its rule Chapter 101: MaineCare Benefits Manual, Chapter  
24 III, Section 67, Principles of Reimbursement for Nursing Facilities no later than  
25 December 15, 2019 to include the cost of health insurance for employees attributable to  
26 MaineCare residents as a fixed cost.

27 **Sec. 7. Partial reimbursement to nursing facilities for certain bad debt.**

28 The Department of Health and Human Services shall amend its rule Chapter 101:  
29 MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for  
30 Nursing Facilities no later than December 15, 2019 to include reimbursement for 50% of  
31 a nursing facility's charges for a maximum of 6 months for a newly admitted resident who  
32 is determined to be financially ineligible for MaineCare after the resident is admitted to  
33 the nursing facility and the charges remain unpaid after reasonable efforts are made by  
34 the nursing facility to collect the debt based on these charges.

35 **SUMMARY**

36 This bill restores the ability of nursing facilities to voluntarily reduce the number of  
37 their licensed beds and then later increase the number of their licensed beds to the prior  
38 level after obtaining a certificate of need and meeting certain conditions.

1           The bill modifies the process to obtain certificate of need approval to reopen reserved  
2 beds. Applications that seek to reopen reserved beds must be approved if the projected  
3 incremental costs of reopening and operating the reopened beds are consistent with the  
4 facility's costs of operating its other beds. Applicants are not required to demonstrate that  
5 any increases in MaineCare costs are offset by other MaineCare savings. The costs of  
6 ongoing operation of both the restored beds and the complement of facility beds at the  
7 time the reserved beds are reopened must be recognized as allowable costs and  
8 incorporated into the facility's MaineCare payment rates.

9           The bill requires the Department of Health and Human Services to include in its  
10 calculation of reimbursement for services provided by a nursing facility the cost incurred  
11 by the facility for a medical director.

12           The bill requires the cost incurred by a nursing facility for the acquisition, use and  
13 maintenance of computer or cloud-based software systems to be included as a fixed cost.

14           The bill requires the Department of Health and Human Services to amend its rules  
15 governing adult family care services to provide reimbursement for up to 30 bed hold days  
16 per calendar year when a resident is absent from a facility.

17           The bill requires the Department of Health and Human Services to amend its rules  
18 governing principles of reimbursement for nursing facilities to include the cost of health  
19 insurance for employees attributable to MaineCare residents as a fixed cost. It also  
20 requires the department to amend these rules to include reimbursement for 50% of a  
21 nursing facility's charges for a maximum of 6 months for a newly admitted resident who  
22 is determined to be financially ineligible for MaineCare after the resident is admitted to  
23 the nursing facility and the charges remain unpaid after reasonable efforts are made by  
24 the nursing facility to collect the debt based on these charges.