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

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

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

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

Whereas, immediate enactment of this resolve is necessary to provide the Commission To Continue the Study of Difficult-to-place Patients adequate time to complete its work; 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 Commission established. Resolved: That, notwithstanding Joint Rule 353, the Commission To Continue the Study of Difficult-to-place Patients, referred to in this resolve as "the commission," is established; and be it further

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

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

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

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

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

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

B. An individual representing a statewide association of hospitals;

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

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

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

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

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

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

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

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

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

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

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

3. Determination of existing capacity and demand for additional capacity in private nonmedical institutions in the State governed by Department of Health and Human Services Rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Appendix C and options to expand or reconfigure the State's Appendix C private nonmedical institution system to better meet identified demands;

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

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

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

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

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

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

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

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

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

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

Sec. 8 Report. Resolved: That, no later than December 15, 2016, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The joint standing committee of the Legislature having jurisdiction over health and human services matters may report out legislation regarding the subject matter of the report to the First Regular Session of the 128th Legislature.

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

SUMMARY

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