



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 87

H.P. 70

House of Representatives, January 16, 2015

**Resolve, To Implement the Recommendations of the Commission To
Continue the Study of Long-term Care Facilities**

(EMERGENCY)

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 STUCKEY of Portland.
Cosponsored by Senator BURNS of Washington and
Representatives: FARNSWORTH of Portland, MAKER of Calais, McELWEE of Caribou,
TURNER of Burlington, Senators: BREEN of Cumberland, SAVIELLO of Franklin.

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 people of the State need and deserve a variety of well-planned and
4 financially stable long-term care services in home-based and community-based care
5 settings and in nursing facilities in their communities; and

6 **Whereas,** recent closures of nursing facilities, in particular in rural and underserved
7 areas of the State, have had a significant impact on Maine families and communities; and

8 **Whereas,** in order to provide high-quality care to Maine's elderly and disabled
9 persons and to maintain access to services across the State, the Legislature must take
10 immediate action to continue a thoughtful and thorough planning process; and

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

15 **Sec. 1. Amendment of Principles of Reimbursement for Nursing**
16 **Facilities. Resolved:** That the Department of Health and Human Services shall amend
17 Rule Chapter 101, MaineCare Benefits Manual, Chapter III, Section 67, Principles of
18 Reimbursement for Nursing Facilities as follows.

19 **1. Occupancy adjustment.** The rule must be amended to decrease the occupancy
20 percentage threshold required for a nursing facility with more than 60 beds from 90% to
21 80% and for a nursing facility with 60 beds or fewer from 85% to 75%.

22 **2. Continuing education for direct care staff.** The rule must be amended so that
23 the cost of continuing education for direct care staff is included as a direct care cost
24 component rather than a routine cost component.

25 **3. Crossover payments.** The rule must be amended to restore crossover payments
26 to nursing facilities related to the nondual Qualified Medicare Beneficiary program
27 population of the Medicare Savings Program for whom coverage was eliminated in
28 Public Law 2013, chapter 368.

29 **4. Critical access nursing facility designation.** The rule must be amended to create
30 a critical access nursing facility designation using criteria that are sensitive to the unique
31 access challenges in remote areas of the State. The rule must also be amended to provide
32 that a critical access nursing facility designation qualifies as an allowable exception to
33 MaineCare budget neutrality. The department shall seek the approval of the federal
34 Department of Health and Human Services, Centers for Medicare and Medicaid Services
35 for the new designation and implement it by April 15, 2015.

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

1 **SUMMARY**

2 This resolve directs the Department of Health and Human Services to amend Rule
3 Chapter 101, MaineCare Benefits Manual, Chapter III, Section 67, Principles of
4 Reimbursement for Nursing Facilities to:

5 1. Decrease the occupancy percentage threshold required for a nursing facility with
6 more than 60 beds from 90% to 80% and for a nursing facility with 60 beds or fewer from
7 85% to 75%;

8 2. Provide that the cost of continuing education for direct care staff is included as a
9 direct care cost component rather than a routine cost component;

10 3. Restore crossover payments to nursing facilities related to the nondual Qualified
11 Medicare Beneficiary program population of the Medicare Savings Program for whom
12 coverage was eliminated in Public Law 2013, chapter 368; and

13 4. Create a critical access nursing facility designation using criteria that are sensitive
14 to the unique access challenges in remote areas of the State and provide that a critical
15 access nursing facility designation qualifies as an allowable exception to MaineCare
16 budget neutrality.