



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2107

H.P. 1503

House of Representatives, February 13, 2020

An Act To Amend the Nursing Facility Licensing Rules To Enhance Cost of Care Collection

Reported by Representative HYMANSON of York for the Joint Standing Committee on Health and Human Services pursuant to Joint Order 2019, H.P. 1489.

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 "R B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 22 MRSA §1826, sub-§2, ¶J** is enacted to read:

3 J. Each contract or agreement must contain a provision that requires a resident's
4 agent who has legal access to a resident's income or financial resources to pay for
5 facility services for the resident from the resident's financial resources, except that the
6 resident's agent may not be held personally liable for the resident's facility expenses.

7 **Sec. 2. Department of Health and Human Services; standard admission**
8 **contract; rulemaking.** The Department of Health and Human Services shall, no later
9 than January 1, 2021, amend its rules in Chapter 110: Regulations Governing the
10 Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities to modify
11 the standard admission contract for residents of nursing homes to make the following
12 changes:

13 1. Include a provision that requires a resident's agent who has legal access to a
14 resident's income or financial resources to pay for nursing facility services for the resident
15 from the resident's financial resources, except that the resident's agent may not be held
16 personally liable for the resident's facility expenses; and

17 2. Include a provision that provides that, if a resident's agent fails in the agent's
18 obligation to ensure that the nursing facility is timely paid for the costs of a resident's
19 monthly care or fails to perform any of the agent's obligations described in the contract, in
20 addition to any other legal remedy the nursing facility may possess, the nursing facility
21 may pursue a legal action against the agent in Probate Court or District Court for review
22 of the agent's performance. In addition to other relief that the nursing facility may request
23 from the court under such action, the nursing facility may also include a request for
24 attorney's fees and costs.

25 Rules adopted pursuant to this section are routine technical rules as defined in the
26 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

27 **SUMMARY**

28 This bill requires the Department of Health and Human Services to amend its nursing
29 facility rules, Chapter 110: Regulations Governing the Licensing and Functioning of
30 Skilled Nursing Facilities and Nursing Facilities, to modify the standard admission
31 contract for the residents of nursing homes to specifically include a requirement for a
32 resident's legal agent to use the resident's financial resources to pay for nursing facility
33 services and to clarify that a nursing facility seeking relief when a resident's agent fails to
34 perform the agent's obligations may also request attorney's fees and costs. The
35 department is required to amend the rule no later than January 1, 2021.