



# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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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)

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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.