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No. 250

H.P. 171

House of Representatives, January 29, 2021

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

Received by the Clerk of the House on January 27, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT
Clerk

Presented by Representative PERRY of Calais.
Cosponsored by Senator CLAXTON of Androscoggin and
Representative: McCREA of Fort Fairfield.

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 of
8 need in accordance with this section, as long as the nursing facility has been in continuous
9 operation without material change of ownership. For purposes of this section and sections
10 333-A and 334-A, beds voluntarily removed from service ~~prior to July 1, 2007~~ and
11 available to be reinstated under this section are referred to as "reserved beds." Reserved
12 beds remain facility property until they lapse as provided for in this section or are
13 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 the
20 reserved beds through June 30th of the following year. The annual notice on reserved
21 beds may be filed by an individual nursing facility or by multiple nursing facilities
22 through a membership organization approved by the department by a single filing; and

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

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

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

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

