

**An Act to Increase Patient Choice in Health Care Facilities and Health Care Settings**

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

**Sec. 1. 22 MRSA §1833** is enacted to read:

**NOTE: Italics indicate new language.**

**§1833. Information disclosure and patient choice**

The following provisions apply to hospitals, *skilled* nursing facilities, nursing facilities, hospice providers, home health agencies, and physicians licensed in the State in order to improve disclosure of information to patients and increase patients choice.

**1. Discharge from hospitals.** A hospital that is preparing to discharge a patient to a *skilled* nursing facility, nursing facility, hospice provider or home health agency shall provide to the patient or to a representative of the patient ~~information~~ *a choice of skilled nursing facilities, nursing facilities, hospice providers and home health agencies from a standardized list of available providers within their immediate service area that are available to the patient and that are able to serve the patient's needs.* The information must include ~~which physicians provide health care services in each nursing facility, hospice provider and home health agency and any business connections between those entities and the physicians~~ *disclosure of conflict of interest.*

**ADDITIONAL INFORMATION FOR COMMITTEE PURPOSES ONLY**

- *The list of nursing facilities, hospice and home health providers and their affiliation in any service area is already known to every area hospital and is by no means extensive and is already known to discharge planners.*
- *Use of a "standardized" list would allow for more transparency in the disclosure to patients and allow patients to make a more informed choice.*
- *Standardization would make it easier for DHS to monitor compliance and ensure that patients are indeed being offered a clear choice and are made aware of conflicts of interest.*
- *Details of format for standardized list would be addressed in rulemaking.*

1 **2. Skilled nursing facility, hospice provider and home health agency information and**  
 2 **nursing facility information.** A skilled nursing facility or nursing facility, hospice provider or  
 3 home health agency that accepts patients upon discharge from a hospital shall on a regular basis  
 4 provide information to the hospital on physicians that provide health care services in the skilled  
 5 nursing facility or nursing facility, hospice provider or home health agency and whether the  
 6 physicians are accepting new patients. The information must include the health care  
 7 qualifications of the physicians and any business connections the physicians have with each  
 8 skilled nursing facility or nursing facility, hospice provider, home health agency or hospital,  
 9 including ownership of the physicians' practices.

#### ADDITIONAL INFORMATION FOR COMMITTEE PURPOSES ONLY

- *Ensures discharge planners are aware of all physicians available to the discharged patient so that they can provide the patient with as complete information as possible on all physicians available to the patient.*
- *Patient choice of physician.*
- *Decreased likelihood of confusion about medical coverage upon discharge from the hospital.*
- *Regarding concerns of administrative burden: There are limited providers practicing in skilled nursing facilities or nursing facilities therefore the list will be brief. Nursing facilities already know which physicians come to their facility as well as their affiliation and which physicians are accepting new patients.*
- *Regarding concerns of administrative burden: The need to update the list will be infrequent as most physicians established in the community have low turnover rates compared with inpatient physicians.*
- *The list shall be provided to the hospital by local area skilled nursing facility and nursing facility only once.*
- *The hospital is only responsible for conveying the information provided by the skilled nursing facility or nursing facility except when the skilled nursing facility or nursing facility provides updates in the event of medical staff changes.*
- *Hospital is not responsible for "vetting" the information or list provided by the skilled nursing facility or nursing facility.*
- *In the case of discharges to more distant providers, the hospital shall make a good faith effort to provide physician options in that particular skilled nursing facility or nursing facility.*
- *The responsibility falls on the physician wanting to take new admissions to make their wishes known to the facility; preferably in writing, and must apply for credentialing if such a requirement exists.*
- *Physicians wishing to only follow their own patients when transferred from the hospital to the nursing facility must indicate to the facility that they are available to do so in order to be included in the standardized provider list. (Most facilities allow physicians in good standing to practice in their facilities without formal credentialing.)*
- *The physician provider list should include at a minimum:*
  - *Physician's name*
  - *Specialty*
  - *Accepting new patients?*

- Will continue to follow their own patients who are admitted?
- Whether the physician or physician practice is affiliated or owned by the hospital or affiliated or owned by the nursing home.
- Patient choice of physician shall be communicated to the skilled nursing facility or nursing facility as part of the discharge process from the hospital.
- If a chosen provider on the list is not available the patient will be assigned to the medical director as a default provider (as is currently done).

**3. Physician information.** ~~A physician who accepts new patients upon discharge from a hospital and admission to a nursing facility, hospice provider or home health agency shall on a regular basis provide information to the hospital, nursing facility, hospice provider or home health agency regarding whether the physician is accepting new patients. The information must include health care qualifications of the physician and any business connections the physician has with each nursing facility, hospice provider, home health agency or hospital, including ownership of the physician's practice. The hospital shall offer a choice of physician provider to patients discharged to a skilled nursing facility or nursing facility in the immediate service area by using a standardized list of available physicians from which the patient may choose.~~

**ADDITIONAL INFORMATION FOR COMMITTEE PURPOSES ONLY**

- Provide patients with a wider choice of physicians.
- Will allow for more physician practices interested in nursing home care to exist by eliminating referral monopolization.
- Areas that can be addressed in rulemaking: Same as in Sec. 2

**4. Skilled nursing facility and nursing facility responsibilities during transfer of care to community providers.** Skilled nursing facilities and nursing facilities shall provide patients with a standardized list of home health and hospice providers that are available to the patient and able to serve the patient's needs in their immediate service area when they are making hospice or home health referrals. The information must include disclosure of conflict of interest.

**ADDITIONAL INFORMATION FOR COMMITTEE PURPOSES ONLY**

- Broader and better informed patient choice.
- Some nursing facilities have an affiliation and/or common ownership with home health and hospice agencies.

**5. Skilled nursing facility and nursing facility responsibilities during transfer of care from community providers.** Skilled nursing facilities and nursing facilities must provide a new long term care admission that arrives from the community or other facility a choice of available

1 physicians using a standardized list of physicians that are available and able to serve the  
 2 patient's needs.

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 4 **ADDITIONAL INFORMATION FOR COMMITTEE PURPOSES ONLY**

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- *Informed patient choice.*
  - *Provide patients with a wider choice of physicians.*
  - *Will allow for more physician practices interested in nursing home care to exist by eliminating referral monopolization.*

13 **Sec. 2. Rules regarding the responsibilities of medical directors in nursing facilities.**

14 The Department of Health and Human Services shall amend its rules  
 15 regarding licensure of nursing facilities, Rule Chapter 110, chapter 16, to require that the  
 16 ~~responsibilities of a facility's medical director meet the requirements of the guidelines for~~  
 17 ~~nursing facilities issued by the United States Department of Health and Human Services, Center~~  
 18 ~~for Medicare and Medicaid Services.~~ duties and responsibilities of a facility's medical director  
 19 shall not be delegated to committees or corporate officers. Rules adopted pursuant to this section  
 20 are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375,  
 21 subchapter 2-A.  
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 24 **ADDITIONAL INFORMATION FOR COMMITTEE PURPOSES ONLY**

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- Strengthens existing regulations.
  - Medical directors are responsible for implementation of resident care policies and coordination of facility-wide medical care.
  - Assures that the facilities clinical practices result in optimal resident outcomes and are not unduly influenced by corporate offices.
  - Improved implementation of quality improvement processes.

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 34 **SUMMARY**

35 This bill requires the disclosure of information to a patient who is being discharged from a  
 36 hospital to a *skilled nursing facility*, nursing facility, hospice provider or home health agency  
 37 regarding the patient's health care options. It requires information sharing among physicians,  
 38 *skilled nursing facilities*, nursing facilities, hospice providers, home health agencies and hospitals  
 39 to facilitate this disclosure. It requires the information to include business connections among  
 40 hospitals, skilled nursing facilities, nursing facilities, hospice providers and home health agencies  
 41 and physicians. The bill also requires the Department of Health and Human Services to amend  
 42 its rules on medical directors in skilled nursing facilities and nursing facilities to ~~make the rules~~  
 43 ~~consistent with federal requirements~~ strengthen existing regulations and designates the rules as  
 44 routine technical rules.