

SENATE No. 1011

The Commonwealth of Massachusetts

SENATE, September 2, 1966.

The committee on Ways and Means, to whom was committed the Senate bill to create a division of extended care facilities in the Department of Public Health and to strengthen and make more equitable the licensing and regulation of nursing homes (Senate, No. 539) (also based on Senate Petition No. 424), report recommending that the same ought to pass, with an amendment, substituting a new draft entitled "An Act providing for the appointment of a hearings officer in the Department of Public Health to hear certain matters relating to convalescent or nursing homes or rest homes, and for other purposes (Senate, No. 1011).

For the committee,

JAMES F. BURKE.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Six.

AN ACT PROVIDING FOR THE APPOINTMENT OF A HEARINGS OFFICER IN THE DEPARTMENT OF PUBLIC HEALTH TO HEAR CERTAIN MATTERS RELATING TO CONVALESCENT OR NURSING HOMES OR REST HOMES, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 17 of the General Laws is hereby
2 amended by inserting after Section 6 the following new sec-
3 tion: —

4 *Section 6A.* The Commissioner shall appoint a hearings offi-
5 cer who shall be an attorney and who shall not be subject to
6 chapter thirty-one. He shall hold hearings as provided in chap-
7 ter one hundred and eleven.

1 SECTION 2. Section 3 of chapter 111 of General Laws as
2 amended by chapter 152 of the acts of 1946, is hereby further
3 amended by striking out the last sentence and substituting
4 the following sentence: — Hearings of the department may be
5 held by the commissioner, or his designee or the hearings
6 officer if so authorized by the commissioner, or by the hearings
7 officer as provided in section seventy-one with respect to re-
8 fusal to renew or revocation of a license of a convalescent or
9 nursing home, or rest home.

1 SECTION 3. Section 71 of said chapter 111 is hereby
2 amended by striking out the first sentence, as appearing in
3 section (1) of chapter () of the acts of 1966, and inserting
4 in place thereof the following sentence: — The department
5 shall issue for a term of two years, and may renew for a like
6 term, a license, subject to revocation by it for cause, to any
7 person whom it deems suitable to establish or maintain a hos-
8 pital, sanatorium, infirmary maintained in a town, convales-

9 cent or nursing home, rest home or charitable home for the
10 aged which meets the requirements of the department estab-
11 lished in accordance with its rules and regulations, provided,
12 however, that each convalescent or nursing home shall be in-
13 spected at least once in each year.

1 SECTION 4. Said section 71 of said chapter 111, is hereby
2 further amended by striking out the eleventh sentence as so
3 appearing and inserting in place thereof the following sen-
4 tence: — Upon a written request by an applicant who is ag-
5 grieved by the refusal to renew such a license, or by a holder
6 who is aggrieved by the revocation of such a license, as the
7 case may be, the commissioner and the council shall hold a
8 public hearing after due notice and thereafter may modify,
9 affirm or reverse the action of the department, provided, how-
10 ever, that the department may not refuse to renew, or revoke,
11 the license of a convalescent or nursing home, or rest home,
12 until after a hearing before a hearings officer, and any such
13 applicant or person so aggrieved shall have all the rights pro-
14 vided in chapter thirty-A with respect to adjudicatory pro-
15 ceedings.

1 SECTION 5. The first paragraph of section 72 of said chap-
2 ter 111, as amended by section 2 of chapter () of the acts of
3 1966, is hereby further amended by striking out the fourth sen-
4 tence, and inserting in place thereof the following sentences: —
5 Such rules and regulations for convalescent and nursing homes,
6 infirmaries, rest homes and charitable homes for the aged shall
7 include minimum requirements for medical and nursing care,
8 the keeping of proper medical and nursing records, uniform re-
9 quirements for the handling of patient funds, and sanitation.
10 The department in promulgating such rules and regulations for
11 convalescent or nursing homes and rest homes, shall consider
12 the ability of such homes to provide service under rates set by
13 the board of rate setting under section thirty L of chapter seven
14 of the General Laws. No such rule or regulation shall apply to
15 a nursing or convalescent home or rest home licensed at the
16 time of promulgation of such rule or regulation, or to a nursing

17 or convalescent or rest home being constructed at the time of
18 such promulgation under plans approved by the department,
19 unless such rule or regulation has a direct and material relation
20 to patient diet, cleanliness, nursing care or health of the patient,
21 provided, however, that nothing herein contained shall be inter-
22 preted to prevent the Department from adopting or interpret-
23 ing rules and regulations more favorable toward existing con-
24 valescent or nursing homes or rest home.