

SENATE No. 1454

The Commonwealth of Massachusetts

SENATE, May 4, 1976.

The committee on Human Services and Elderly Affairs, to whom was referred the petition (accompanied by bill, Senate, No. 480) of Chester G. Atkins and Thomas F. Brownell for legislation to establish procedures to provide accountability for the personal care allowances of public welfare recipients in long term care facilities, reports the accompanying bill (Senate, No. 1454).

For the Committee,

JACK H. BACKMAN

The Commonwealth of Massachusetts

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

AN ACT TO ESTABLISH PROCEDURES TO PROVIDE ACCOUNTABILITY FOR THE PERSONAL FUNDS OF RESIDENTS IN LONG TERM CARE FACILITIES.

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. Section 2 of chapter 118E of the General Laws as
2 appearing in section 1 of chapter 800 of the Acts of 1969, is
3 hereby amended by inserting after paragraph (h) the follow-
4 ing paragraphs: —

5 (i) "Fiduciary", any corporation, bank, trust company, or
6 individual who serves in any of the following capacities for
7 another person: (1) guardian, (2) conservator, (3) trustee,
8 (4) a representative payee as determined by any federal
9 agency, or (5) a person who receives governmental or private
10 pensions or payments on behalf of another.

11 (j) "Personal funds", all cash, checks, negotiable instru-
12 ments, or any other income or liquid personal property held
13 by residents of any nursing home, rest home, or convalescent
14 home, all payments to said residents granted pursuant to any
15 Social Security Administration program, and all other gov-
16 ernmental or private pensions or payments that are intended
17 to satisfy the residents' personal needs.

1 SECTION 2. Chapter 118E of the General Laws, as appearing
2 in section 1 of chapter 800 of the Acts of 1969 is hereby
3 amended by inserting after section 4 the following section: —

4 *Section 4A.* The department shall establish standard proce-
5 dures to provide controls and accountability for the personal
6 funds of residents who receive medical assistance in nursing
7 homes, rest homes, and convalescent homes for whom said
8 funds are managed by a fiduciary or for whom said funds are
9 held in trust by the nursing home, rest home, or convalescent
10 home administrator in an individual or aggregate personal
11 care trust fund. Such procedures shall insure that personal

12 funds are used only for the use and benefit of the resident, pro-
13 vided such procedures are consistent with existing federal laws
14 and regulations and with any orders by a court of competent
15 jurisdiction. Such procedures shall require all fiduciaries of
16 persons residing in nursing homes, rest homes, or convalescent
17 homes to register with the department on a form supplied by
18 the department. Such procedures shall also require an annual
19 report by the fiduciary to the department on a form supplied
20 by the department indicating the manner in which personal
21 funds were managed by the fiduciary during the report period
22 under threat of the penalty for perjury as provided for in sec-
23 tions 1 and 1A of chapter 268 of the General Laws.

24 The failure of a fiduciary to register with the department
25 or to submit an annual report to the department shall con-
26 stitute evidence for the removal of the fiduciary from his
27 duties. A fiduciary who embezzles or fraudulently converts or
28 appropriates money, goods, or property held or possessed by
29 him for the use and benefit of the resident shall be subject to
30 penalties prescribed in Section 57 of chapter 266 of the Gen-
31 eral Laws and shall make full restitution of said money, goods,
32 or property.

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