

SENATE No. 1757

The Commonwealth of Massachusetts

SENATE, March 15, 1979.

The committee on health care, to whom was referred the petition (accompanied by bill, Senate, No. 393) of Carol C. Amick, Louis P. Bertonazzi, members of the House of Representatives and others for legislation pertaining to information on the alternatives to mastectomies in treating breast cancer; the petition (accompanied by bill, Senate, No. 398) of Jack H. Backman and John A. Businger for legislation to establish the rights of patients and residents in hospitals, clinics and certain other facilities; the petition (accompanied by bill, Senate, No. 432) of John C. King and Richard P. Roche for legislation to provide for information to certain patients and residents in hospitals, clinics and certain other facilities of their rights; the petition (accompanied by bill, House, No. 965) of Charles F. Flaherty, Jr., relative to establishing the rights of patients and residents in hospitals, clinics and certain other facilities; the petition (accompanied by bill, House, No. 1768) of Lois G. Pines and William F. Galvin relative to providing information to certain patients and residents in hospitals, clinics and certain other facilities of their rights; and the petition (accompanied by bill, House, No. 2365) of John F. Cusack and Andrew J. Rogers, Jr., relative to establishing the rights of patients and residents in hospitals, clinics and certain other facilities; reports the accompanying new draft (Senate, No. 1757).

For the Committee

EDWARD L. BURKE

The Commonwealth of Massachusetts

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

AN ACT PROVIDING FOR INFORMATION TO CERTAIN PATIENTS AND RESIDENTS IN HOSPITALS, CLINICS AND CERTAIN OTHER FACILITIES OF THEIR RIGHTS.

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

1 Chapter 111 of the General Laws is hereby amended by in-
2 serting after section 70D the following section: —

3 *Section 70E.* As used in this section, “facility” shall mean
4 any hospital, institution for the care of unwed mothers,
5 clinic, infirmary maintained in a town, convalescent or nurs-
6 ing home, rest home, or charitable home for the aged, li-
7 censed or subject to licensing by the department; any state
8 hospital operated by the department; and “facility” as de-
9 fined in section three of chapter one hundred and eleven B;
10 any private, county or municipal facility, department or ward
11 which is licensed or subject to licensing by the department
12 of mental health pursuant to section twenty-nine of chapter
13 nineteen; and “facility” as defined in section thrity-eight of
14 chapter one hundred and twenty-three; the Soldiers’ Home
15 in Holyoke, and the Soldiers’ Home in Massachusetts.

16 The rights established under this section shall apply to
17 every patient or resident in said facility. Every patient or
18 resident shall receive written notice of the rights established
19 herein upon admittance into such a facility, except that if the
20 patient is a member of a health maintenance organization
21 and the facility is owned by or controlled by such organiza-
22 tion, such notice shall be provided at the time of membership
23 in such an organization, and also upon an admittance to said
24 facility. In addition, these rights shall be conspicuously
25 posted in appropriate places within a facility.

26 Every patient or resident of a facility shall have in addi-
27 tion to any other rights provided by law, the right to free-
28 dom of choice as it relates to his selection of a facility or a
29 physician or health service mode except in the case of emer-

30 gency medical treatment or as otherwise provide for by con-
31 tract or except in the case of a patient or resident of a facil-
32 ity named in section fourteen A of chapter nineteen, pro-
33 vided, however, that the physician, facility, or health service
34 mode is able to accommodate the patient exercising such
35 right of choice.

36 Every patient or resident of a facility in which billing for
37 service is applicable to such patient or resident, upon reason-
38 able request, shall receive from a person designated by the
39 facility an itemized bill reflecting laboratory charges, phar-
40 maceutical charges, and third party credits paid toward said
41 bill and shall be allowed to examine an explanation of said
42 bill regardless of the source of payment. This information
43 shall be made available to the patient's attending physician.

44 Every patient or resident of a facility shall have the right:

45 (a) upon request, to obtain from the facility in charge of
46 his care the name and specialty, if any, of the physician or
47 other person responsible for his care or the coordination of his
48 care.

49 (b) to confidentiality of all records and communications
50 to the extent provided by law.

51 (c) to have all reasonable requests responded to promptly
52 and adequately within the capacity of the facility.

53 (d) upon request, to obtain an explanation as to any rela-
54 tionship of the facility to any other health care facility or
55 educational institution insofar as said relationship relates to
56 his care or treatment.

57 (e) to obtain from a person designated by the facility a
58 copy of any rules or regulations of the facility which apply
59 to his conduct as a patient or resident.

60 (f) upon request, to receive from a person designated by
61 the facility any information which the facility has available
62 relative to financial assistance and free health care.

63 (g) upon request, to inspect his medical records and to re-
64 ceive a copy of his medical records in accordance with sec-
65 tion seventy. The fee for said copy shall be determined by
66 the rate of copying expenses.

67 (h) to refuse to be examined, observed, or treated by stu-
68 dents or other facility staff without jeopardizing access to

69 psychiatric, psychological, or other medical care and atten-
70 tion.

71 (i) to refuse to serve as a research subject and to refuse
72 any care or examination when the primary purpose is edu-
73 cational or informational rather than therapeutic.

74 (j) to privacy during medical treatment or other render-
75 ing of care within the capacity of the facility.

76 (k) to prompt life saving treatment in an emergency
77 without discrimination on account of economic status or
78 source of payment and without delaying treatment for pur-
79 poses of prior discussion of the source of payment unless such
80 delay can be imposed without material risk to his health.
81 This right shall also extend to those persons not already pa-
82 tients or residents of a facility if said facility has a certified
83 emergency care unit.

84 (l) to informed consent to the extent provided by law.
85 Every patient or resident of a facility shall be provided by the
86 physician in the facility the right

87 (a) to informed consent to the extent provided by law.

88 (b) to privacy during medical treatment or other render-
89 ing of care within the capacity of the facility.

90 (c) to refuse to be examined, observed, or treated by stu-
91 dents or any other facility staff without jeopardizing access
92 to psychiatric, psychological or other medical care and atten-
93 tion.

94 (d) to refuse to serve as a research subject, and to refuse
95 any care or examination when the primary purpose is educa-
96 tional or informational rather than therapeutic.

97 (e) to prompt life saving treatment in an emergency with-
98 out discrimination on account of economic status or source
99 of payment and without delaying treatment for purposes of
100 prior discussion of source of payment unless such delay can be
101 imposed without material risk to his health.

102 (f) upon request, to obtain an explanation as to any rela-
103 tionship of the physician to any other health care facility or
104 educational institutions insofar as said relationship relates to
105 his care or treatment. Included herein shall be an explana-
106 tion of a physician's ownership or financial interest in the

107 facility or other health care facilities insofar as said owner-
108 ship relates to his care or treatment.

109 (h) in the case of a patient suffering from any form of
110 breast cancer, to complete information on all alternative treat-
111 ments which are medically viable.

112 Any person whose rights under this section are violated
113 may bring, in addition to any other action allowed by law
114 or regulation, a civil action under chapter two hundred and
115 thirty-one.

116 No provision of this section relating to confidentiality of
117 records shall be construed to prevent any third party reim-
118 burser from inspecting and copying, in the ordinary course
119 of determining eligibility for or entitlement to benefits, any
120 and all records relating to diagnosis, treatment, or other
121 services provided to any person including any minor or in-
122 competent for which coverage, benefit or reimbursement is
123 claimed, so long as the policy or certificate under which the
124 claim is made provides that such access to such records is
125 permitted. No provision of this section relating to confiden-
126 tiality of records shall be construed to prevent access to any
127 such records in connection with any peer review or utilization
128 review procedures applied and implemented in good faith.

129 No provision herein shall apply to any institution operated
130 or listed and certified by the First Church of Christ, Scien-
131 tist, in Boston, or patients whose religious beliefs limit the
132 forms and qualities of treatment to which they may submit.

133 No provision herein shall be construed as limiting any other
134 right or remedies previously existing at law or equity.

