

BASIS STATEMENT

10-144 CMR Ch. 113, Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control

PROVISIONALLY ADOPTED MAJOR SUBSTANTIVE RULE

This is a new, separate rule, that constitutes the 10th Part of 10-144 CMR Ch. 113 (Regulations Governing the Licensing and Functioning of Assisted Housing Programs. This Infection Prevention and Control Rule Part is applicable to, and governs, the other nine Parts of the Chapter 113 rule: Assisted Living Programs, Level I Residential Care Facilities; Level II Residential Care Facilities; Level III Residential Care Facilities; Level IV Residential Care Facilities; Level I Private Non-Medical Institutions; Level II Private Non-Medical Institutions; Level III Private Non-Medical Institutions and Level IV Private Non-Medical Institutions. Pursuant to 22 MRS § 7853, this rule is a major substantive rule.

This new rule proposes to institute measures to improve and clarify infection surveillance, control, mitigation, and crisis staffing planning in Maine's assisted housing facilities, including assisted living, residential care facilities, and private non-medical institutions.

The provisions related to Infection Prevention and Control will apply to all types of Assisted Housing Programs subject to licensure under 22 MRS §7801. These provisions are consistent with State and Federal Center for Disease Control guidance, in response to the increased spread of the 2019 Novel Coronavirus (COVID-19) and will help to mitigate any future outbreaks of novel contagious illnesses. These provisions on infection prevention and control measures necessary for these settings were drafted in consultation with infection control experts from the Maine Center for Disease Control and the Office of Aging and Disability Services.

The Department adopted similar provisions in the recent revision of 10-144 CMR Ch. 110, Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities, effective August 1, 2020. This rulemaking addresses the likelihood of potential similar incidence of COVID-19 in in Maine's assisted housing facilities, including assisted living and residential care facilities and private non-medical institutions, and the mortal impact of transmission.

In compliance with 22 M.R.S. § 7853(1), the Department developed this rule in consultation with the Long-Term Care Ombudsman Program (LTCOP). On June 25, 2020, the Department submitted draft rules to Brenda Gallant, Executive Director of the LTCOP, for her review and input. Department staff and LTCOP Executive Director Gallant and staff discussed the rulemaking on or about June 26, 2020, at which time Executive Director Gallant expressed no concerns regarding the draft rule.

The Department, through OADS, has requested federal Covid Relief Funding (CRF) under the Coronavirus Aid, Relief, and Economic Security Act to hire an infection control consultant, who will work with facilities to help them develop an Infection control consultant, who will work with facilities to help them develop an Infection Control and Prevention plan, which will be required by this rule. The Department received approval for the CRF at the end of September 2020. The Department anticipates that the facilities' plan development/infection control consultation costs will be defrayed though the CRF. The rule provides a requirement for PPE and supplies, but these measures should have been in place in the facilities in response to the COVID-19 pandemic.

Because this is a major substantive rule, the APA required a public hearing be held. 5 MRS § 8052(1). Due to the Covid public health emergency, the public hearing was held virtually via ZOOM on Thursday, November 12, 2020.

Pursuant to 5 M.R.S. § 8072, this provisionally adopted rule will be submitted to the Maine Legislature for its review. This rule will have legal effect only after review by the Legislature followed by final adoption by the Department.

STATUTORY AUTHORITY

22 MRS §7853, § 42, § 3173

PROVISIONALLY ADOPTED:

December 31, 2020

EFFECTIVE DATE:

To Be Determined

Notice of Agency Rule-making Provisional Adoption

AGENCY: Department of Health and Human Services, Division of Licensing and Certification

CHAPTER NUMBER AND TITLE: 10-144 CMR Ch. 113, Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control

ADOPTED RULE NUMBER: 20xx.xxx
(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY:

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EFFECTIVE DATE:
(TO BE FILLED IN BY SECRETARY OF STATE)

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Please approve bottom portion of this form and assign appropriate **AdvantageME** number.

APPROVED FOR PAYMENT *Deane Perry* DATE: 12/31/2020
Authorized signature

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65% 014	10A	6711	04		AH			
35% 010	10A	6711	01		AH			

