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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 413, L.D. 636, "An Act to Authorize the Department of Health and Human Services to License and Ensure the Quality of Personal Care Agencies"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 22 MRSA §1717, sub-§1, ¶C, as amended by PL 2015, c. 196, §2 and c. 299, §2, is further amended to read:

C. "Personal care agency" means a business entity or subsidiary of a business entity that is not otherwise licensed by the Division of Licensing and Regulatory Services department's division of licensing and certification and that hires and employs direct access personnel or individuals who work in direct contact with clients, patients or residents to provide assistance with activities of daily living and related tasks home care services to individuals in the places in which they reside, either permanently or temporarily. An individual who hires and employs direct access personnel or individuals who work in direct contact with clients, patients or residents to provide care for that individual is not a personal care agency, except when permitted by rule of the department. "Personal care agency" does not include a home health care provider licensed under chapter 419.'

Amend the bill by striking out all of sections 5 and 6 and inserting the following:

'Sec. 5. 22 MRSA §1717, sub-§2-A is enacted to read:

2-A. Licensing of personal care agencies. Beginning July 1, 2024, an entity may not provide home care services without a personal care agency license issued by the department in accordance with this section. All application fees for a license under this section are nonrefundable and are due upon submission of the application.

A. A personal care agency that holds an unexpired registration issued in accordance with subsection 2 may continue to provide home care services until the registration expires.

This paragraph is repealed July 1, 2025.

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1 B. A personal care agency holding an unexpired registration issued in accordance with
2 subsection 2 is not required to obtain a license until the registration expires.

3 This paragraph is repealed July 1, 2025.

4 **Sec. 6. 22 MRSA §1717, sub-§2-B** is enacted to read:

5 **2-B. Licensing standards for personal care agencies.** The department shall adopt
6 rules to establish standards and fees for the licensing of personal care agencies. The
7 licensing standards must include, but are not limited to:

8 A. General licensing requirements;

9 B. Quality measures;

10 C. Personnel qualifications;

11 D. Mandatory and minimum training requirements;

12 E. Home care services;

13 F. Services provided and coordination of services;

14 G. Supervision and organizational structure, including lines of authority;

15 H. Record-keeping and confidentiality practices;

16 I. Business records requirements;

17 J. Licensing fees that are no less than \$200 and no more than \$2,000; and

18 K. Other aspects of services provided by a personal care agency that may be necessary
19 to protect the public.

20 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
21 chapter 375, subchapter 2-A.'

22 Amend the bill in section 9 in subsection 2-E in paragraph A in subparagraph (4) in the
23 first line (page 3, line 21 in L.D.) by striking out the following: "E" and inserting the
24 following: 'A, subparagraph (5)'

25 Amend the bill in section 18 in subsection 13-A in paragraph A in subparagraph (5) by
26 striking out all of division (c) (page 6, lines 32 to 38 in L.D.) and inserting the following:

27 '(c) In addition to, or in lieu of, the penalties imposed pursuant to subsection
28 4, impose a penalty upon a personal care agency for a violation of this section
29 or rules adopted pursuant to this section. The department shall by rule establish
30 a schedule of penalties according to the nature of the violation that are no less
31 than \$500 per day of operation but not more than \$10,000 per day. Each day
32 of a violation constitutes a separate offense. Rules adopted pursuant to this
33 section are routine technical rules as defined in Title 5, chapter 375, subchapter
34 2-A.'

35 Amend the bill by striking out all of sections 20 and 21 and inserting the following:

36 **'Sec. 20. 22 MRSA §1717, sub-§15** is enacted to read:

37 **15. Confidentiality of records.** This subsection governs confidentiality.

1 A. A department record that contains personally identifiable information or health
2 information of clients, patients or residents created or obtained in connection with the
3 department's licensing or quality assurance activities under this section is confidential.

4 B. The provisions of paragraph A apply to a department record that contains personally
5 identifiable information or health information of clients, patients or residents created
6 or obtained in connection with the department's registration activities.

7 This paragraph is repealed July 1, 2025.'

8 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
9 number to read consecutively.

10

SUMMARY

11 This amendment makes a number of technical corrections to the bill. It corrects the
12 definition of "personal care agency" to clarify that such an entity is licensed by the
13 Department of Health and Human Services. It includes a fee range for licensing fees and
14 removes any reference to rules that are not routine technical rules. It corrects the cross-
15 reference for sanctions and establishes upper and lower penalty amounts. It provides that
16 confidential records are limited to personally identifiable information or health information
17 of clients, patients or residents.

18

FISCAL NOTE REQUIRED

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(See attached)