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Date: (Filing No. H-)

HEALTH AND HUMAN SERVICES

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

COMMITTEE AMENDMENT “ ” to H.P. 1230, L.D. 1925, “An Act to Clarify and Improve the Laws Relating to the Background Check Center and the Maine Certified Nursing Assistant and Direct Care Worker Registry”

Amend the bill by inserting after section 27 the following:

Sec. 28. 22 MRSA §1812-J, sub-§1, ¶A-2, as amended by PL 2015, c. 299, §11, is further amended to read:

A-2. "Disqualifying offense" means a substantiation of abuse, neglect or exploitation or a criminal conviction identified in rules adopted by the department that prohibit employment as ~~an unlicensed assistive person~~ a direct care worker.

Sec. 29. 22 MRSA §1812-J, sub-§1, ¶A-3, as amended by PL 2015, c. 299, §11, is further amended to read:

A-3. "Health care and direct access services settings" means settings in which individuals receive services that require direct access by a certified nursing assistant or ~~unlicensed assistive person~~ a direct care worker or other employee in providing direct care and related services.

Sec. 30. 22 MRSA §1812-J, sub-§1, ¶A-4, as enacted by PL 2011, c. 257, §3, is amended to read:

A-4. "High severity" means the level, as established by the department by rule, of abuse, neglect or misappropriation of property of a client, patient or resident that forms the basis for a substantiated finding after investigation of a complaint against ~~an unlicensed assistive person~~ a direct care worker of abuse, neglect or misappropriation of property of a client, patient or resident.

Sec. 31. 22 MRSA §1812-J, sub-§1, ¶A-5, as enacted by PL 2011, c. 257, §3, is amended to read:

A-5. "Indicated finding" means an administrative determination made by the department, after investigation of a complaint against ~~an unlicensed assistive person~~ a

COMMITTEE AMENDMENT

1 direct care worker of abuse, neglect or misappropriation of property of a client, patient
2 or resident, that the abuse, neglect or misappropriation of property of a client, patient
3 or resident was of low to moderate severity based on criteria established by the
4 department by rule and that the person is not prohibited from employment as ~~an~~
5 ~~unlicensed assistive person~~ a direct care worker.

6 **Sec. 32. 22 MRSA §1812-J, sub-§1, ¶A-6**, as enacted by PL 2011, c. 257, §3, is
7 amended to read:

8 A-6. "Low to moderate severity" means the level, as established by the department by
9 rule, of abuse, neglect or misappropriation of property of a client, patient or resident
10 that forms the basis for an indicated finding after investigation of a complaint against
11 ~~an unlicensed assistive person~~ a direct care worker of abuse, neglect or
12 misappropriation of property of a client, patient or resident.'

13 Amend the bill by inserting after section 29 the following:

14 **'Sec. 30. 22 MRSA §1812-J, sub-§1, ¶C-1**, as enacted by PL 2011, c. 257, §3, is
15 amended to read:

16 C-1. "Substantiated finding" means an administrative determination made by the
17 department, after investigation of a complaint against ~~an unlicensed assistive person~~ a
18 direct care worker of abuse, neglect or misappropriation of property of a client, patient
19 or resident, that the abuse, neglect or misappropriation of property of a client, patient
20 or resident was of high severity based on criteria established by the department by rule.'

21 Amend the bill by inserting after section 30 the following:

22 **'Sec. 31. 22 MRSA §1812-J, sub-§1, ¶E**, as enacted by PL 2011, c. 257, §3, is
23 amended to read:

24 E. "Unsubstantiated finding" means an administrative determination made by the
25 department, after investigation of a complaint against ~~an unlicensed assistive person~~ a
26 direct care worker of abuse, neglect or misappropriation of property of a client, patient
27 or resident, that no abuse, neglect or misappropriation of property of a client, patient
28 or resident was found to support an indicated finding or a substantiated finding of
29 abuse, neglect or misappropriation of property of a client, patient or resident.'

30 Amend the bill by striking out all of section 58 and inserting the following:

31 **'Sec. 58. 22 MRSA §9054, sub-§8, ¶B**, as enacted by PL 2015, c. 299, §25, is
32 repealed.

33 **Sec. 59. 22 MRSA §9054, sub-§8, ¶B-1** is enacted to read:

34 B-1. Collecting fingerprints to determine eligibility of individuals to work in direct
35 access positions in accordance with standards adopted by department rule, and in
36 accordance with applicable policies and rules of the Department of Public Safety,
37 Bureau of State Police. The Bureau of State Police shall take, or cause to be taken, an
38 individual's fingerprints, along with any other information necessary for a statewide
39 and nationwide criminal history record check. All fingerprints must be maintained by
40 the State Bureau of Identification and the Federal Bureau of Investigation in
41 accordance with their policies and procedures, and the Background Check Center shall
42 obtain the results of the fingerprinting queries from the State Bureau of Identification;

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

3 **SUMMARY**

4 This amendment corrects the remaining references to "unlicensed assistive person" in
5 the Maine Revised Statutes, Title 22, section 1812-J to "direct care worker." It also clarifies
6 that the Department of Public Safety, Bureau of State Police must take, and cause to be
7 taken, fingerprints to determine the eligibility of individuals to work in direct access
8 positions. The results must be obtained by the Department of Health and Human Services,
9 Background Check Center.

10 **FISCAL NOTE REQUIRED**

11 **(See attached)**