



PETER SCHLECK  
DIRECTOR

MAINE STATE LEGISLATURE

OFFICE OF PROGRAM EVALUATION AND  
GOVERNMENT ACCOUNTABILITY

September 20, 2023

MEMORANDUM

To: Government Oversight Committee (GOC) of the 131<sup>st</sup> Maine Legislature

From: Peter Schleck, Director, Office of Program Evaluation and Government Accountability (OPEGA)

Subject: Recommendation for Continued OPEGA Review of Maine Veterans' Homes (MVH)

This Memorandum serves as a recommendation that the GOC vote to have OPEGA continue reviewing MVH with a focus on certain financial internal controls, in light of review steps to date and continuing State financial support of MVH.<sup>1</sup>

**Efforts to Date to Examine Concerns About MVH Financial Operations<sup>2</sup>**

Concerns were first brought to the GOC on February 10, 2023, about possible financial control weaknesses within MVH. In light of those concerns, and within the context of the state's continuing financial support of the organization, the GOC has, at intervals, directed a series of steps:

- February 14, 2023, the GOC Chairs sent a letter to the MVH Board of Trustees asking that OPEGA be provided the status and results of any internal investigation of the concerns that had been raised.
- February 17, 2023, MVH sent a letter to the GOC informing the Committee that MVH would cooperate and provide materials to OPEGA. MVH sent separate communications to OPEGA on the same date producing the results of a confidential internal investigation.
- March 10, 2023, OPEGA reported to the GOC that the concerns raised had not been fully addressed, in OPEGA's judgment. The GOC voted to add Maine Veterans' Homes to the OPEGA workplan, with an initial scope of examining allegations made by the former Controller of that organization.

<sup>1</sup> See, e.g., [Resolves 2023, ch. 117](#); [P.L. 2022, ch. 528](#) (attached to this Memorandum).

<sup>2</sup> Some correspondence referenced in this document remains part of OPEGA's confidential working papers and is exempt from public disclosure. 3 M.R.S. § 997(3). Certain information may also be confidential by operation of other provisions of Maine or Federal law. The references to correspondence are only intended to help provide an appropriate public summary of efforts to date by the GOC and OPEGA. Moreover, the information in MVH records initially reviewed by OPEGA has not been fully evaluated, but rather, forms the general foundation and rationale for today's recommendation.

- March 27, 2023, OPEGA requested records from MVH. From March to June 2023, MVH produced documents in stages and OPEGA conducted an initial review of over 50,000 pages of MVH records and engaged in ongoing communications with MVH.
- At OPEGA's invitation, on July 7, 2023, the MVH CEO described in writing initiatives she was overseeing herself to reform MVH operations.
- On August 14, 2023, OPEGA wrote to MVH and detailed how the initial records review suggested that further review by OPEGA was indeed warranted, and was expected to focus on certain financial internal controls.
- On August 30, 2023, OPEGA met with the MVH CEO and Chair of MVHs' Board of Trustees at their request. MVH restated commitments to work with OPEGA and learn from the results of any further review, as part of ongoing reform efforts.
- On September 4, 2023, the MVH CEO sent the OPEGA Director a letter, with the understanding that it would be made public at today's GOC meeting. That letter is the third Attachment to this Memorandum.

### **OPEGA Recommendation For Continued Review of MVH**

After the initial steps taken by OPEGA at the direction of the GOC, OPEGA has determined that questions remain about the strength of certain MVH financial internal controls. At this time, OPEGA proposes to focus on:

- Internal controls over MVH spending on supplies and services, in relation to established budgetary limits.
- The relative timeliness of accounts payable accrual and processing.
- The extent to which internal data (and data systems), including relating to purchasing, payroll, and human resources, adequately supports and informs MVH spending within established budgetary limits.

If this continued work scope is approved by the GOC today, OPEGA will seek to retain a qualified firm to assist in performing the evaluation, in order to ensure that OPEGA may continue to also timely address other GOC priorities, including in the realm of child protection. Nothing in this recommendation is intended to limit the GOC's prerogative to direct additional reviews steps (or scope) now or in the future.

### **Proposed Motion Approving Continued OPEGA Work on the Review of MVH**

That the Committee vote to approve the recommendation set forth in the September 20, 2023, Memorandum from the OPEGA Director to the GOC, to have OPEGA continue work by assessing MVH's internal controls over spending in relation to budgetary limits and related processes.

Attachments

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STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-THREE

S.P. 404 - L.D. 985

**Resolve, to Provide Additional Funding to the Maine Veterans' Homes**

**Sec. 1. Transfer from fiscal year 2023-24 Department of Administrative and Financial Services, Medical Use of Cannabis Fund, Other Special Revenue Funds available balances. Resolved:** That, on or before June 30, 2024, the State Controller shall transfer \$2,600,000 from available balances in the Medical Use of Cannabis Fund, Other Special Revenue Funds account within the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund.

**Sec. 2. Transfer to Department of Health and Human Services, Nursing Facilities-MVH Other Special Revenue Funds. Resolved:** That, notwithstanding any provision of law to the contrary, on or before June 30, 2024, the State Controller shall transfer \$2,600,000 from the unappropriated surplus of the General Fund to the Department of Health and Human Services, Nursing Facilities-MVH Other Special Revenue Funds account for a one-time payment to the Maine Veterans' Homes to support ongoing operations.

**Sec. 3. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF  
Nursing Facilities 0148**

Initiative: Provides one-time funding for ongoing operations at the Maine Veterans' Homes.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$5,495,395	\$0
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$5,495,395</b>	<b>\$0</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$3,116,727	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$3,116,727</b>	<b>\$0</b>

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-TWO

—  
S.P. 719 - L.D. 2001

**An Act To Clarify State Policy and Legislative Intent Regarding the Maine Veterans' Homes, To Require Notification of Closure of the Maine Veterans' Homes to the Legislature and To Fund Public Homes in Caribou and Machias in Order To Keep Them Open**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the closure of the Maine Veterans' Homes facilities in Caribou and Machias will cause substantial and unnecessary harm and disruption to the veterans and the families of the veterans who are under the care of these facilities; and

**Whereas,** closure of the Maine Veterans' Homes facilities in Caribou and Machias was abruptly decided without public discussion; and

**Whereas,** the facilities in these locations are necessary to provide care to the veterans in the surrounding rural areas; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 37-B MRSA §601,** as amended by PL 2015, c. 397, §4, is repealed and the following enacted in its place:

**§601. Statement of policy; purpose; location of homes; additional services**

**1. Statement of policy.** It is the policy of the State to ensure the provision of long-term care, support and services to eligible veterans and their family members in every region of the State and the intent of the Legislature that the Maine Veterans' Homes implement this policy by providing long-term care, support and related services to fulfill the State's moral obligation to promote the well-being and dignity of the veterans who have served their nation, often in times of war and at great cost.

**2. Purpose; location of homes.** The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes and for any other class of veterans who meet applicable state and federal requirements to receive services provided by the Maine Veterans' Homes. The Maine Veterans' Homes provide long-term care, support and related services to eligible veterans and family members of veterans in every region of the State. To carry out the duty of providing long-term care, support and related services to eligible veterans and family members of veterans, the Maine Veterans' Homes must be located in Augusta, Bangor, Caribou, Machias, Scarborough and South Paris. The homes located in the municipalities listed in this subsection must remain in continuous operation and no location may discontinue services unless the Board of Trustees of the Maine Veterans' Homes follows the process established in section 612.

**3. Additional services.** In addition to the provision of long-term care, support and related services, the Maine Veterans' Homes may provide nonnursing facility care and services, including inpatient health care programs and adult day health care programs, to Maine veterans if approved by appropriate state and federal authorities. The Maine Veterans' Homes may construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds, including, but not limited to, funds sought under section 604, subsection 6. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose.

**Sec. 2. 37-B MRSA §603, sub-§1**, as enacted by PL 2021, c. 238, §1, is amended to read:

**1. Administration of the homes.** The administration of the homes is vested in the Board of Trustees of the Maine Veterans' Homes, referred to in this chapter as "the board," as authorized by Title 5, section 12004-G, subsection 34.

**Sec. 3. 37-B MRSA §603, sub-§2**, as enacted by PL 2021, c. 238, §1, is repealed and the following enacted in its place:

**2. Appointment; composition.** The board consists of 13 members, one of whom must be the Director of the Maine Bureau of Veterans' Services, ex officio, who serves without term. The Governor shall appoint the remaining members as follows:

**A.** Nine members from a list of nominees submitted to the Governor by the board. The list submitted by the board must include individuals recommended to the board by established veterans' service organizations with chapters in the State and organizations and individuals who have demonstrated leadership in their fields; and

**B.** Three members who are not members of the United States Armed Forces or the National Guard or veterans and who are not on the list of nominees submitted by the board pursuant to paragraph A.

The membership of the board must reflect the diversity of the State, including, but not limited to, diversity in geographic location, cultural and ethnic background, sexual

orientation, gender identity and professional experience. A majority of board members must be honorably discharged veterans.

**Sec. 4. 37-B MRSA §604, sub-§2**, as amended by PL 2021, c. 238, §2, is further amended to read:

**2. Meetings.** The board shall meet at least 4 times annually. ~~Six~~ Seven members constitute a quorum.

**Sec. 5. 37-B MRSA §604, sub-§6**, as amended by PL 2015, c. 397, §12, is further amended to read:

**6. Other funds.** ~~The board may apply for and receive any grants in aid~~ In order to ensure the continuous operation of the homes in the municipalities listed in section 601, the board shall seek funds from private and public sources, including, but not limited to, state and federal appropriations and grants for which the State or the homes may be eligible.

**Sec. 6. 37-B MRSA §604, sub-§7**, as amended by PL 2015, c. 397, §12, is further amended to read:

**7. Rules.** The board shall adopt rules necessary to administer the homes, to establish just charges for the maintenance of members and to oversee the operation of the homes. In adopting rules, the board shall seek comments and information from staff of the homes, members, members' families, members of the public and other relevant sources, but the Maine Administrative Procedure Act provisions regarding rulemaking, Title 5, chapter 375, subchapters 2 and 2-A, do not apply.

**Sec. 7. 37-B MRSA §604, sub-§8**, as enacted by PL 1987, c. 11, §2, is amended to read:

**8. Assistance.** ~~Every~~ The Legislature and every department and agency of the State, ~~when requested,~~ may furnish such assistance, counsel or advice as the board may request or require in the discharge of its duties.

**Sec. 8. 37-B MRSA §611**, as amended by PL 2015, c. 397, §18, is further amended to read:

**§611. Reports Annual reports**

~~The~~ By February 15, 2023 and annually thereafter, the board shall submit ~~an annual~~ a report to the Governor and the joint standing committee of the Legislature having jurisdiction over veterans affairs. This report must contain a copy of audited financial statements, statistics on members who resided in the homes during the year, any amendments to the rules regarding the administration of the homes made by the board since its last report on the administration of the homes, a description of any efforts to seek funding as required under section 604, subsection 6, recommendations to the Governor and Legislature and information regarding such other matters as the board deems considers pertinent. The joint standing committee of the Legislature having jurisdiction over veterans affairs may report out legislation based upon the report.

**Sec. 9. 37-B MRSA §612** is enacted to read:

**§612. Discontinuation of services or closure of home**

If the board authorizes the discontinuation of services at or the closure of a public home for veterans, the board shall notify the President of the Senate, the Speaker of the House of Representatives and the joint standing committee of the Legislature having jurisdiction over veterans affairs within 3 days of the authorization and no less than 45 days before submitting a plan for the discontinuation of services or closure of the home to the Department of Health and Human Services if required by law. Within 10 days of receiving notice under this section, the joint standing committee of the Legislature having jurisdiction over veterans affairs, with as much public notice as possible, shall hold a public hearing at which board members shall present the reasons for the discontinuation of services or the closure and the committee shall accept public comments on the discontinuation of services or the closure. At that public meeting the board shall present:

**1. Financial and demographic data.** The financial and demographic data for the regions served by the home, including, but not limited to, information regarding services necessary to meet the needs of eligible veterans and their families in the region;

**2. Plan for care of veterans and families.** The board's plan for the care of veterans receiving care at the home and the family members of those veterans; and

**3. Plan for use or disposition of home.** The board's plan for the use or disposition of facilities after the home is closed.

The joint standing committee of the Legislature having jurisdiction over veterans affairs may report out legislation to any regular or special session of the Legislature based on the information received at the meeting.

**Sec. 10. Maine Veterans' Homes; Caribou and Machias locations.** Notwithstanding any decision of the Board of Trustees of the Maine Veterans' Homes prior to the effective date this section, the Maine Veterans' Homes located in Caribou and Machias may not be closed until the Board of Trustees of the Maine Veterans' Homes submits a report under the Maine Revised Statutes, Title 37-B, section 611 that includes a proposal to close those homes and the process required under Title 37-B, section 612 has been followed.

**Sec. 11. Maine Veterans' Homes; stakeholder group.** The Board of Trustees of the Maine Veterans' Homes, in collaboration with the Commissioner of Defense, Veterans and Emergency Management and the Commissioner of Health and Human Services, shall convene a group of relevant stakeholders to develop a plan for the long-term viability and continuous operation of the Maine Veterans' Homes locations designated in the Maine Revised Statutes, Title 37-B, section 601. The stakeholder group must include or seek input from veterans and their families, employees of the Maine Veterans' Homes and people in the communities served by the Maine Veterans' Homes. The board shall present a report summarizing the findings and recommendations of the stakeholder group to the joint standing committee of the Legislature having jurisdiction over veterans affairs no later than February 15, 2023.

**Sec. 12. Department of Health and Human Services to amend rules; Maine Veterans' Homes.** The Department of Health and Human Services shall allocate a total supplemental payment of \$1,063,830 in fiscal year 2021-22 as described in this section. The department shall amend its rules in Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities, to allocate a



supplemental payment of \$2,442,200 in fiscal year 2022-23 to the Maine Veterans' Homes to offset budget shortfalls. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The department, in its rulemaking, shall allocate funding in a manner that addresses Maine Veterans' Homes shortfalls on a basis proportional to the shortfall of each Maine Veterans' Homes nursing facility. As a condition of receiving the supplemental payments, the Maine Veterans' Homes must commit to continue to provide all services that were offered at the Caribou and Machias homes on October 27, 2021.

**Sec. 13. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF  
Nursing Facilities 0148**

Initiative: Provides one-time supplemental payments to the Department of Health and Human Services for the purpose of making supplemental payments to the Maine Veterans' Homes.

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
All Other	\$1,000,000	\$750,000
<b>GENERAL FUND TOTAL</b>	<u>\$1,000,000</u>	<u>\$750,000</u>

<b>FEDERAL EXPENDITURES FUND</b>	<b>2021-22</b>	<b>2022-23</b>
All Other	\$0	\$1,545,668
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$0</u>	<u>\$1,545,668</u>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
All Other	\$63,830	\$146,532
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$63,830</u>	<u>\$146,532</u>

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Sept. 4, 2023

Director Peter Schleck  
Office of Program Evaluation and Government Accountability  
Maine State Legislature  
82 State House Station  
Augusta, ME 04333

Dear Director Schleck,

As requested, this letter confirms MVH's continued commitment to fully cooperate with OPEGA. Excellence is one of MVH's core values. My hope is that any conclusions and proposals resulting from this effort will be tools that we can use to improve MVH. We fully intend to act on your constructive feedback to take MVH to the next level of success. Use of a qualified third party firm will also provide MVH with a level of comfort that the facts, records, and information we provide throughout this review will be fairly and fully considered.

MVH's commitment to cooperation is based in our values of integrity and honesty and a desire to build and maintain strong working relationships with the State. We are actively pursuing sustainable funding from the State and understand the desire of some to ensure we are good financial stewards of that funding, despite the fact that was not what drove the initial investigation. In that context, a third party review makes sense.

This being stated, I do want to express my concerns that certain information contained in your letter of August 14 lacks important context and a full understanding of MVH financial practices. Interviews with key staff and review of additional records will provide a full understanding of our organization and operational practices, efforts that I understand will be taken in tandem with the accounting firm in the next stage of your review. My hope is that this third party will take the time and effort required to interview staff, and solicit and analyze supporting information, before coming to conclusions and offering actionable feedback on opportunities for improvement.

From our discussion on August 30, I understand the following about the proposed audit of MVH:

- You intend to hire a company with extensive experience in accounting controls. As discussed, we believe it is essential that the firm have experience in GASB accounting principles and accounting practices with nursing homes.
- To develop the parameters and scope of the audit, the forensic accounting firm will interview appropriate MVH staff and consider the contextual information we supply through interviews and supporting documentation. We feel this step is crucial to ensure that the scope of the audit is informed by a full picture of the organization and operational practices.

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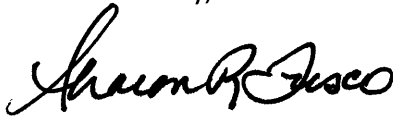
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- MVH will have an opportunity to review the proposed scope of work and provide input prior to the initiation of the audit.
- You will work with MVH on the timing of the audit and make reasonable adjustments to the timeline for MVH operational considerations, such as our annual fiscal audit which already places significant demands on key staff .
- The high-level focus of this audit will be, generally, on internal controls related to purchasing and spending practices and accounts payable accrual and processing. The audit, and OPEGA's investigation in general, is not concerned with the termination of the complainant .
- The complete results of the audit will be shared with MVH.

MVH is comfortable with the use of a third party forensic accounting firm that meets these criteria. This firm's analysis may be useful to MVH's own ongoing efforts to improve our internal policies and procedures and, to this end, we look forward to reviewing its conclusions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Fusco". The signature is fluid and cursive, with the first name "Sharon" being more prominent than the last name "Fusco".

Sharon Fusco, CEO