

Date:

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## HEALTH AND HUMAN SERVICES

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### STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 639, L.D. 979, “Resolve, Regarding Legislative Review of Chapter 113: Assisted Housing Programs Licensing Rule, a Late-filed Major Substantive Rule of the Department of Health and Human Services”

Amend the resolve by striking out everything after the emergency preamble and before the emergency clause and inserting the following:

**'Sec. 1. Adoption. Resolved:** That final adoption of Chapter 113: Assisted Housing Programs Licensing Rule, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if:

1. In the rule in Part B: Residential Care Facilities, in Section 7.A, a new Section 7.A.3 is added that requires a facility's administrator to ensure that the following data is submitted to the division of licensing and certification, no less frequently than on a quarterly basis, beginning no later than 60 days after the written notice by the Department of Health and Human Services that a reporting system has been developed and is ready for facility data submission:

A. The facility's daily number of staff for each shift who were present and working each day providing direct care to residents during each shift;

B. The facility's number of staff who are working as temporary staff and were hired through a temporary nurse agency or other temporary staffing agency or Internet-based system, and the name of the agency;

C. The facility's staff turnover rate for each quarter; and

D. The facility's resident census for each day.

The Department of Health and Human Services shall submit an annual report, beginning January 2, 2027, to the joint standing committee of the Legislature having jurisdiction over health and human services matters, with the monthly average of data collected under

1 Section 7.A. The report due January 2, 2027 must include a method to provide the data to  
2 the public on the department's publicly accessible website;

3 2. The requirement in the rule in Part B: Residential Care Facilities for minimum direct  
4 residential care staff to occupied bed ratios in Section 14.B.1 that would be required after  
5 one year and 2 years of final adoption of the rule is removed and only the current ratios  
6 remain; and

7 3. The requirement in the rule in Part B: Residential Care Facilities for staffing  
8 requirements for memory care units in Section 17.I.2 and Section 17.I.3 that would be  
9 required after one year and 2 years of final adoption of the rule is removed.

10 **Sec. 2. Stakeholder group to examine residential facility staffing. Resolved:**

11 That the long-term care ombudsman under the Maine Revised Statutes, Title 22, section  
12 5107-A shall convene a stakeholder group to examine residential care facility staffing  
13 issues, referred to in this resolve as "the stakeholder group."

14 **1. Membership.** The stakeholder group must include, but is not limited to, the  
15 following:

16 A. A representative from the office of aging and disability services within the  
17 Department of Health and Human Services;

18 B. A representative from the division of licensing and certification within the  
19 Department of Health and Human Services;

20 C. A representative of a statewide organization representing residential care facilities;

21 D. A representative of a residential care facility with a memory care unit;

22 E. A representative of a residential care facility without a memory care unit;

23 F. A representative of an assisted living provider;

24 G. A representative from Legal Services for Maine Elders;

25 H. A representative from a statewide association advocating on behalf of issues related  
26 to Alzheimer's disease;

27 I. A representative from a statewide association advocating on behalf of the elderly;

28 J. A representative who has a family with a member in residential care;

29 K. Two employees with direct care experience working in residential care facilities  
30 who are not in facility management; and

31 L. Additional representatives from the long-term care ombudsman program within the  
32 Department of Health and Human Services.

33 **2. Duties.** The stakeholder group shall examine issues of staffing in residential care  
34 facilities as governed by Department of Health and Human Services rule Chapter 113:  
35 Assisted Housing Programs Licensing Rule. The stakeholder group shall:

36 A. Examine appropriate staffing levels, including at different times of the day;

37 B. Examine staffing ratios required to ensure residential care at different times of the  
38 day;

39 C. Examine staffing levels and ratios sufficient to meet resident needs, including  
40 medical and other needs;

1 D. Ensure that there is objective information about the impact of staffing ratios on  
2 access to care, including reimbursement and financial information; and

3 E. Examine the connections between facility reimbursement and staffing and the  
4 transparency of those connections.

5 **3. Outside expertise; data.** The stakeholder group may consult with national experts  
6 within existing resources. The stakeholder group shall consider the following information:

7 A. Survey and certification results from the United States Department of Health and  
8 Human Services, Centers for Medicare and Medicaid Services and the division of  
9 licensing and certification within the Department of Health and Human Services;

10 B. The minimum data set tool from the United States Department of Health and Human  
11 Services, Centers for Medicare and Medicaid Services used by long-term care  
12 providers;

13 C. Current reported staffing levels, including quarterly reporting on direct care staffing,  
14 submitted by providers to the Department of Health and Human Services;

15 D. Surveys of direct care staff;

16 E. Surveys submitted by residential care providers;

17 F. Complaints received by the long-term care ombudsman program within the  
18 Department of Health and Human Services and by the Department of Health and  
19 Human Services;

20 G. Steps taken by facilities to address workforce shortages;

21 H. Projected workforce needs and staffing availability; and

22 I. Current reimbursement rates for staffing.

23 **4. Meeting and reports.** The stakeholder group shall begin meeting no later than  
24 September 30, 2025. The stakeholder group shall submit a preliminary report no later than  
25 January 30, 2026 and a final report no later than January 2, 2027 to the joint standing  
26 committee of the Legislature having jurisdiction over health and human services matters.  
27 The committee is authorized to report out legislation related to the final report to the 133rd  
28 Legislature in 2027.'

29 Amend the resolve by relettering or renumbering any nonconsecutive Part letter or  
30 section number to read consecutively.

## 31 SUMMARY

32 This amendment replaces the resolve and authorizes the Department of Health and  
33 Human Services to adopt its major substantive rule Chapter 113: Assisted Housing  
34 Programs Licensing Rule, as long as the staffing increases for residential care facilities and  
35 memory care units are removed and the current staffing levels are retained. It requires the  
36 rule to include provisions for staffing data to be reported at least quarterly to the department  
37 from residential care facilities upon notification by the department that a reporting system  
38 has been developed and is ready for data submission. The department shall provide an  
39 annual report to the joint standing committee of the Legislature having jurisdiction over  
40 health and human services matters with monthly averages for the data. The amendment  
41 also requires the long-term care ombudsman program within the department to convene a

1 stakeholder group to examine staffing issues at residential care facilities and report its  
2 findings in a preliminary and final report to the joint standing committee of the Legislature  
3 having jurisdiction over health and human services matters.

4 **FISCAL NOTE REQUIRED**

5 **(See attached)**