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House of Representatives, April 27, 2021

**An Act To Implement the Recommendations of the Commission To
Study Long-term Care Workforce Issues**

(EMERGENCY)

Received by the Clerk of the House on April 23, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FAY of Raymond.

1 **§7401. Definitions**

2 As used in this chapter, unless the context otherwise indicates, the following terms
3 have the following meanings.

4 **1. Activities of daily living.** "Activities of daily living" means tasks routinely
5 performed by a person to maintain bodily functions, including bed mobility, transfers,
6 locomotion, dressing, eating, toileting, bathing and personal hygiene.

7 **2. Direct access.** "Direct access" means, with respect to an individual who is receiving
8 services from a direct care worker in an institutional setting or in a home or community
9 setting, access to the individual's property, personally identifiable information, financial
10 information or resources or physical access to the individual.

11 **3. Direct care worker.** "Direct care worker" means an individual who by virtue of
12 employment generally provides to individuals direct contact assistance with activities of
13 daily living or instrumental activities of daily living or has direct access to provide care and
14 services to clients, patients or residents regardless of the setting.

15 **4. In-home and community support services.** "In-home and community support
16 services" means health and social services and other assistance required to enable adults
17 with long-term care needs to remain in their places of residence or group homes. These
18 services include, but are not limited to, self-directed care services; home health aide
19 services; personal care assistance services; companion and attendant services; homemaker
20 services; respite care; and other appropriate and necessary social services.

21 **5. Home or community setting.** "Home or community setting" means a place of
22 residence or group home where adults with long-term care needs receive in-home and
23 community support services.

24 **6. Institutional setting.** "Institutional setting" means residential care facilities,
25 licensed pursuant to chapter 1664; intermediate care and skilled nursing facilities and units
26 and hospitals, licensed pursuant to chapter 405; and state institutions for individuals who
27 have intellectual disabilities or autism or other related conditions.

28 **7. Instrumental activities of daily living.** "Instrumental activities of daily living"
29 includes, but is not limited to, preparing or receiving of a main meal, taking medication,
30 using the telephone, handling finances, banking, shopping, routine housework, laundry and
31 getting to appointments.

32 **8. Self-directed care services.** "Self-directed care services" means services procured
33 and directed by the person receiving services or the person's surrogate that allow the person
34 to reenter or remain in the community and to maximize independent living opportunities.
35 "Self-directed care services" includes the hiring, firing, training and supervision of direct
36 care workers to assist with activities of daily living and instrumental activities of daily
37 living.

38 **§7402. Direct care worker minimum wage**

39 Starting January 1, 2022, the minimum hourly wage paid to a direct care worker must
40 be no less than 125% of the minimum wage established in Title 26, section 664, subsection
41 1. Increases to the minimum wage for direct care workers must begin on January 1st of
42 each year at the same time as any increase in the minimum wage takes place.

43 **§7403. Rulemaking**

3 **Sec. B-2. 22 MRSA §5307** is enacted to read:

4 **§5307. Long-term Care Workforce Oversight Advisory Committee**

5 The Long-term Care Workforce Oversight Advisory Committee, as established in Title
6 5, section 12004-I, subsection 47-J and referred to in this section as "the oversight
7 committee," is established to provide advice and oversight to the department and the joint
8 standing committee of the Legislature having jurisdiction over health and human services
9 matters regarding long-term care workforce issues.

10 **1. Membership.** The oversight committee consists of 10 members as follows:

11 A. Eight members, appointed by the commissioner, who are employers and providers
12 of services in the long-term care industry and employ direct care workers who provide
13 assistance with activities of daily living as defined in section 7302, subsection 1-A or
14 instrumental activities of daily living as defined in section 7302, subsection 6-A to
15 clients, patients or residents, in institutional and home or community settings;

16 B. One member, appointed by the commissioner, who is a recipient of self-directed
17 care services as defined in section 7401, subsection 8; and

18 C. The long-term care ombudsman as described in section 5107-A.

19 For the purposes of this subsection, "direct care worker" has the same meaning as in section
20 7401, subsection 3.

21 **2. Terms; vacancy.** Members of the oversight committee are appointed to staggered
22 2-year terms so that the terms of 4 members representing providers expire on July 1st of
23 each year. If the commissioner fails to make an appointment prior to the expiration of a
24 member's term, that member continues to serve until the commissioner makes an
25 appointment for the remainder of that term. If a vacancy occurs prior to the expiration of a
26 specified term, the commissioner shall appoint a person to serve the remainder of that term.

27 **3. Duties.** The oversight committee has the following duties:

28 A. Collect data from the department relating to the number of hours of services
29 provided by direct care workers, the number of approved hours for which staffing
30 cannot be provided due to staffing shortages, vacancies for direct care worker positions
31 and the number of unfilled beds in residential care facilities licensed under chapter
32 1664 and nursing facilities licensed under chapter 405;

33 B. Compile data available from the Department of Labor relating to current and future
34 needs for direct care workers;

35 C. Review the quarterly reports under subsection 5 from the department, the
36 Department of Labor and the Department of Education on implementing
37 recommendations provided to the departments and the joint standing committee of the
38 Legislature having jurisdiction over health and human services matters relating to long-
39 term care workforce issues and address barriers to implementing those
40 recommendations; and

1 Services, the Department of Labor and the Department of Education are directed to provide
2 to the oversight committee quarterly reports on the progress and efforts to implement the
3 recommendations of the oversight committee and of the Commission To Study Long-term
4 Care Workforce Issues. The oversight committee must submit an annual report to the joint
5 standing committee of the Legislature having jurisdiction over health and human services
6 matters.