



Testimony of Kristin Overton, Chesterville, ME

LD 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

Joint Standing Committee on Health and Human Services

April 1, 2025

Good afternoon, Senator Ingwerson, Representative Meyer and esteemed members of the Health and Human Services Committee. Thank you for the opportunity to share testimony **against** LD 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 and to **request that the committee direct the Department to amend the rules and remove Section 97-F Private Non-Medical Institutions (PNMIs) providers who support adults with intellectual and developmental disabilities from this Rule.**

My name is Kristin Overton and I am the Executive Director of SKILLS, Inc. SKILLS is a non-profit organization in central Maine, serving people with intellectual and developmental disabilities (I/DD) for more than 60 years. SKILLS provides more than 120 people with 24/7 residential, community building, in-home, and employment support under Sections 21, 29, and 97-F. We have 9 waiver-funded group homes and 4 Private Non-Medical Institutions (PNMI) located in Shawmut, St. Albans, Pittsfield, and Waterville. SKILLS has the most PNMI Appendix F homes in the State of Maine at this time.

Our PNMI-F locations support 30 people total. We fall under the “specialized facilities” which support people with a singular diagnosis; in our case all with Intellectual and Developmental Disabilities. Our service description and the cost settlement process is not the same as the other PNMI in Section 97 or other providers who fall under the proposed Chapter 113 Rules. The intent of the State and licensing is that all I/DD services, which will include these PNMI Section F services, will fall under a new licensing rule for HCBS Providers, currently in development, based on the enactment of 34-B M.R.S. § 1203-B. **It is not reasonable for a singular provider to have to conform to two different new licensing rules within a 12 month period. This would create an undue burden of cost for Section 97, Appendix F PNMI I/DD Providers**

We submitted public comment on the proposed Chapter 113 Rules. We believe this new Rule will have a significant increase on costs and the level of non-reimbursable administration required to be in compliance. I have included a copy of my public comment, detailing our concerns, with this testimony. The response to our comment was: “In light of the enactment of 34-B M.R.S. § 1203-B, certain providers will be licensed under a soon to be proposed HCBS licensing rule. Providers licensed under 34-B M.R.S. § 1203-B will include residential care facilities providing a setting for an adult with an intellectual disability, autism, spectrum disorder, a related condition or an acquired brain injury and funded in whole or in part by the Department.” These new licensing rules for HCBS Providers are anticipated to be released this summer. Upon learning of this session today, I emailed licensing who stated that PNMI **Section 97-F would fall under the new HCBS licensing rules and that a transition plan for the license would be provided at that time, however we will fall under the new Chapter 113 until that occurs.**





We would have to invest time and hire additional administrative and clinical staff to come into compliance with Chapter 113; and then again invest time and money to come into compliance with the new HCBS Provider Licensing Rule once released, which could have different staffing requirements.

I urge you to remove PNMI, Section 97, Appendix F I/DD Providers from this Rule due to the unreasonableness of having to come into compliance with this rule at great cost, only to then again have to come into compliance with a new rule within the next 12-18 months. I'm happy to answer any questions the Committee may have.

Kristin Overton

koverton@skillsinc.net



William Montejo, Director
Division of Licensing & Certification – All Programs
Department of Health and Human Services
109 Capitol Street
11 State House Station
Augusta, Maine 04333

RE: Comments on Proposed 10-144 CMR Ch. 113, Assisted Housing Programs Licensing Rule

Sent via email and online to: DLRS.info@maine.gov and
<https://www.maine.gov/dhhs/about/rulemaking/10-144-cmr-ch-113-assisted-housing-licensing-rule-2024-10-23>

Dear Director Montejo,

SKILLS is a non-profit organization in central Maine, serving people with intellectual and developmental disabilities for more than 60 years. SKILLS provides more than 110 people with 24/7 residential support and community, in-home, and employment supports under Sections 21, 29, and 97-F. We have 9 waiver-funded group homes and support 30 individuals in 4 Private Non-Medical Institutions (PNMI) located in Shawmut, St. Albans, Pittsfield, and Waterville. SKILLS has the most PNMI Appendix F homes in the State of Maine at this time. These PNMI's are not large Assisted Living facilities, but small 6-person group homes (with 1, 12-person Level IV).

The PNMI-F Reimbursement Model is insufficient to cover our costs as a provider of these services and many of the proposed rules will increase the unfunded burden. Our greatest hope is not even to make a profit but to just break-even; however, this is not the case year after year. We have considered closing our PNMI's many times, however, the 30 people who live there are not on Section 21 with housing services and we're not willing to force them from their homes yet.

I am writing to provide comments on the proposed rule changes currently under review. While I appreciate the Department's efforts to ensure safety and quality across facilities, I have several concerns about the practical and financial implications of these changes, particularly for Section 97-F; Level III PNMI facilities. Below, I outline my specific concerns:

1. Page 10 – Evidence of RN on Staff or Under Contract

- o The proposed requirement for RNs to be on staff or under contract, with several exceptions, introduces significant additional costs for facilities. Our facilities are Private **Non-Medical** Institutions and the requirement for medical personnel is counterintuitive for the setting. For our organization, this would disproportionately impact three of our four PNMI facilities, creating financial strain without a clear demonstration of the necessity for such a change.



2. Page 11 – Expanded Water Testing Requirements

- o Requiring expanded water testing every five years adds a recurring cost burden. While water safety is critical, the increased frequency and scope of testing should be reassessed to balance safety with financial feasibility, especially if a location has access to a public water supply as does 3 of our 4 facilities.

3. Page 30 – Written Policy for Employees Under APS Investigation

- o While accountability is vital, the proposed requirement for policies regarding employees under APS investigation could have variable impacts depending on management expectations. Given the often-lengthy APS investigation process, this requirement could create unnecessary staffing challenges which directly impacts the funding model negatively.

4. Page 37 – Diabetes Training

- o Requiring in-depth diabetes training by a nurse, regardless of whether the facility has clients with diabetes, adds unnecessary administrative burdens and cost. Current regulations, where nurses provide initial training at hire and organizations conduct annual general diabetes training, are sufficient for most cases where no one with diabetes resides.
- o Additionally, requiring nurse re-training for staff could place undue strain on facilities, particularly those already managing tight budgets and staff shortages.

5. Page 39 – Timely Documentation (2b)

- o The requirement to return signed faxes within 10 working days is a positive change, as it promotes efficiency and accountability.

6. Page 46 – Administrator Qualifications

- o Requiring a "Residential Care or Multi-level Care Administrative License" for Level III PNMI administrators marks a significant shift. Currently, a high school diploma and references suffice, but this change imposes a significant barrier given the limited access to licensed nursing home administrators in Maine. This requirement would lead to recruitment challenges and higher unpaid administrative costs. Our reimbursement structure currently only allows for \$27,053 in all non-direct care administration costs (not just the Administrator). Based on our Compensation Policy, we do not anticipate that we could hire a licensed Administrator for less than \$65,000 per year and still meet the requirements as outlined within the proposed rules which will mean an automatic loss of more than \$50,000 on this singular position alone.
- o Furthermore, requiring administrators to dedicate scheduled time onsite at each facility, rather than delegating duties to site managers or coordinators, reduces operational flexibility and efficiency and prevents us from being able to spread the cost of a single Administrator over several locations as this work is unpredictable and schedules frequently need to shift based on need.

7. Page 66 – Infection Prevention and Control (IPC)

- o Mandating that facilities employ or contract with a certified or trained Infection Prevention and Control (IPC) Specialist for infection control plans adds a new financial and administrative obligation that would be unsustainable for all of our facilities. Again, our reimbursement model does not allow for this expense and so this would be an unfunded requirement as it would also fall under the Administrative allowance which is already insufficient to cover costs.

8. Page 76 – Food Supplies and Record-Keeping

- o Increasing the food supply requirement from 48 hours to 5 days is excessive and introduces logistical and financial challenges. Our kitchens are not equipped to hold that amount of food and would require extensive expansion in order to meet this obligation.
- o Recording the type and quantity of food purchased and maintaining these records for three months creates an unnecessary administrative burden with minimal safety benefits.
- o Requiring residents involved in food preparation to be supervised by trained staff undermines the home-like atmosphere and autonomy that residents are entitled to under the Home and Community-based Settings Rulemaking.

Overarching Concern

The proposed changes collectively elevate Level III PNMI requirements to align more closely with Level IV facilities. While consistency and high standards are commendable goals, this shift risks disproportionately burdening PNMI Appendix-F facilities, which may lack the financial and staffing resources of other facilities. These elevated requirements could inadvertently lead to decreased availability and sustainability of care for Maine residents.

Around us, many providers are closing their Appendix F PNMI's and converting them to Section 21 group homes, leaving the people living at our locations with even fewer options for supported housing if we were to close. In 2018, there were 31 providers, now there are 22 remaining.

While Appendix-C has seen rate reform and additional provider payments, we are desperately in need of financial relief and reform in Appendix F. These regulatory changes will mean that SKILLS would have to close all of its PNMI-Appendix F locations, displacing 30 people, if not timed with rate reform or relief.

Recommendations

1. Reassess the necessity and cost implications of each proposed requirement as it relates to Appendix F providers.
2. Coordinate licensing rule changes to be in effect only once the PNMI Appendix F Rate Reform has been addressed and the Service Rules under Chapter 101; Section 97-F have been completed and defined.



3. Consider carving out PNMI, Section 97-F providers to be licensed as part of the Section 21 and Section 29 Single-licensing Rule still under development as the locations in question are more in alignment with Section 21 Group Homes than with Assisted Living Facilities.
4. Allow greater flexibility for certain requirements, such as diabetes training and administrator qualifications, to accommodate the unique needs of Level III PNMI facilities.

Thank you for considering these comments. I encourage the Department to weigh the financial and operational realities of implementing these changes to ensure that quality care remains accessible and sustainable for Maine residents.

Sincerely,

A handwritten signature in black ink that reads "Kristin J. Overton".

Kristin Overton
Executive Director

cc: Laura Cordes, Executive Director, MACSP

The Full Written Response to this Comment Letter from the Department:

Response: In light of the enactment of 34-B M.R.S. § 1203-B, certain providers will be licensed under a soon to be proposed HCBS licensing rule. Providers licensed under 34-B M.R.S. § 1203-B will include residential care facilities providing a setting for an adult with an intellectual disability, autism, spectrum disorder, a related condition or an acquired brain injury and funded in whole or in part by the Department. The Department notes that standards contained in this rule were revised based on resident acuity within assisted housing programs and were intended to simplify the licensing system by reducing number of parts from ten to two. The Department notes that standards developed in this rulemaking are necessary to ensure health and safety across most residential care settings. It may be appropriate for a facility to request a waiver if the needs of the residents can be met in an alternative manner than what is required in the rule, depending on the circumstances.” No changes were made to the rule in response to this comment.