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LD 1442; Resolve, Regarding Personal Care Agency Licensing Rules

Maine Long-Term Care Ombudsman Program
Before the Committee on Health and Human Services
April 17th, 2025

Good afternoon, Senator Ingwersen, Representative Meyer and members of the Joint Standing Committee on Health and Human Service. My name is Danielle Malcolm, and I am the Home Care Advocate for the Maine-Long Term Care Ombudsman Program.

The Ombudsman Program provides statewide advocacy for older and disabled residents in nursing homes, assisted living and residential care and for recipients of home care and participants in adult day programs. Additionally, we assist patients in hospitals who experience barriers in accessing the long-term services and supports they need when they are ready for discharge.

LD 1442 makes changes to Personal Care Agency Licensing Rules. These changes include removal of the requirement that a PCA agency have a physical site located in the state of Maine, requirements for training of direct care staff, changes to supervision requirements and to reporting requirements, and changes to requirements for clients to sign certain changes to the client's service plans. While some of these changes may benefit the consumer, LTCOP has concerns about these proposed changes.

Proposed rule modification 1

LTCOP does not support the proposed revision to remove the requirement that a personal care agency must have an in-state physical location. LTCOP has concerns about how a PCA agency could meet the needed quality standards without a presence in the state. LTCOP is a consumer advocate and does not see any benefit to the consumer by making changes to this rule. A provision such as this should come with more in-depth conversations around how an agency could safely manage direct care staff from out of state.

Proposed rule modification 3

LTCOP does not support the proposed provisions to allow 5 years of personal care and successful completion of an examination demonstrating competency in skills taught in the personal support specialist training, direct support worker training or another department-approved program related to the provision of personal care to the list of allowable qualifications for direct care staff.

LTCOP understands the direct workforce staffing crisis and supports legislation that will bring more quality staff into the field. While personal care experience is important in learning, the PSS training includes more than just education on personal care. The training includes how to hold professional boundaries, ethics, and mandatory reporting laws. Additionally, training includes important modules on how to notice signs for elder abuse, consumer rights and even the nuances involved in end-of-life care. These are areas that someone with previous personal care experience may not have ever encountered. LTCOP would suggest the department consider a

modified training program to fast track those with previous PSS experience, to make sure they still complete necessary training modules.

Proposed rule modification 7

LTCOP supports the proposed requirement that supervisors observe, in a culturally appropriate and trauma-informed manner, an employee's ability to understand and perform service plan tasks. All agencies should be considering this during supervision, training and on-site visits.

Proposed rule modification 8

LTCOP does not support changes to the requirements that only reasonable allegations of misappropriation of client property involving agency staff be reported. "Reasonable allegations" is a subjective term and would be interpreted differently by every agency. It would be a conflict of interest to allow a PCA agency to decide which allegations are "reasonable" and which ones are not.

Proposed rule modification 9

LTCOP does not support the proposed changes to remove the requirement that a client or legal representative sign a service plan update due to a significant change in client function or status. The proposed changes replace this rule with a requirement that the client be notified within business days of a service plan update but does not need to provide proactive consent for the update. Requiring a consumer or legal representative to sign a service plan change provides protection to both the consumer and the agency by providing documented evidence that both parties understand and consent to the changes. The proposed change does not specify what is considered a notification (letter, phone call or voicemail etc.). Some consumers may struggle with memory, and a verbal notification of a care change might not suffice. If a consumer makes a claim that they were not informed of a care-plan change, it would be their word against the agency that a notification was delivered to them in the timely manner.

While LTCOP understands the staffing shortages and the states need to make onboarding new PCA agencies and sustaining our current ones important, rolling back PCA agency rules should not be how we address this. If PCA agencies are struggling to meet the standards of the new PCA rules, the department should consider rate reimbursement review to fund PCA agencies at a rate that allows them to meet the new quality standards.

Thank you for your consideration.