

Senator Henry Ingwersen  
Representative Michele Meyer  
c/o Legislative Information Office  
100 State House Station  
Augusta, ME 04333

May 2, 2025

Re: LD 1442: Resolve, Regarding Personal Care Agency Licensing Rules

To the Members of the Health and Human Services Committee:

On behalf of the members of the Maine Association of Personal Care Agencies (MAPCA), I appreciate the opportunity to provide you with clarifying information regarding some of the comments presented at the public hearing.

As demonstrated by the testimony of our membership, there is a wide range of personal care agencies providing services in Maine. It is because of this diversity that MAPCA put forward the proposed changes in LD 1442 to serve as a better baseline of standards for the quality care they currently provide. The licensing rules should apply equally to all personal care agencies, regardless of how they are funded, who they serve, or where they might be located.

We appreciate the work of DHHS's Bureau of Licensing and the importance of the role that Director Montejo and his staff play in ensuring the safety of our clients. We share the exact same goal. It is for this reason that we wish to identify several differences in interpretation that we have with the Department regarding the current licensing rule and the proposed changes in LD 1442.

**Physical location vs. records storage (Section 1)**

Mr. Montejo noted in his testimony that a justification for this section in the rule was concern about the insecure storage of records. MAPCA understands how this could be a problem, and our members are aware of situations in the past in which some agencies' records were not appropriately stored. However, many PCAs now have moved away from maintaining physical records, opting instead to use electronic records. Rather than a rule to require a physical office - which may or may not house any client documentation - we would propose language governing the appropriate storage of records. We believe this would more directly address the Department's concern.

Mr. Montejo also argued that a physical location requirement was meant to secure locations in which agency staff could meet clients or their families. In fact, given the rural nature of our state, the vast geography many agencies cover, and the nature of their work in people's

homes, it is incredibly rare for staff to meet clients in an agency office. Most often, meetings are in the clients' homes or in a location close to the family or client.

As noted in the testimony of Susan Sampson of FCP Live-in, in states where an agency is required to have an office, the office is used solely to satisfy the licensing rule. This is an unnecessary and burdensome cost. There are already multiple agencies here in Maine with different license numbers using the same physical address, which indicates that the current offices are not being used in the manner that the Department intended through this rule.

**DSW training** (Sections 2, 4, & 5)

The DSW training pilot program request was sent less than 48 hours before the public hearing. We still do not have a clear indication of when that training will be ready for agencies. As noted by both Mr. Montejo and several MAPCA members, there have been past issues with the PSS training. Notably, we do not view the PSS training as being valuable for agency staff. Not only is it ineffective, but it is expensive and time consuming in comparison to the more pertinent proposed DSW training (50 hours vs 20 hours). Allowing agencies to begin using the DSW training as it becomes available would be the best use of staff time and client funds.

Note: PSS training is still required of personal care agency staff who work with MaineCare clients. Again, the rules need to serve as a baseline for all agencies and should not be medically based. Agencies that are required to meet more specific standards for MaineCare will still need to meet those additional standards until or unless those are changed through a separate process.

**Test-out provision** (Section 3)

Mr. Montejo expressed a willingness to consider a test-out provision but not a waiver of a standard base of knowledge. We agree, and we would reiterate our request for the ability to test out of the training. Agency staff who have been working for five or more years should have the right to take the same tests and show the same skills as newer staff members. If the caregiver fails to prove their aptitude through those tests, the new rule should require the caregiver to take the full course.

**Supervision** (Sections 6 & 7)

As stated during the testimony, typical shifts and locations of caregivers often do not allow for the easy scheduling of supervision visits. Many caregivers are per diem and only work when needed, not on a regular schedule. It is not unusual for an agency to provide services throughout the entire state.

As Mr. Montejo noted, the original rule was based on the MaineCare Benefits Manual. While some personal care agencies serve MaineCare clients, the majority do not. Some agencies need to follow the MaineCare guidelines, but the licensing rules should serve as a standard for all agencies and not be based on a medical model.

The extended supervisory requirements in LD 1442 allow personal care agencies suitable flexibility to ensure appropriate supervision of staff. We strongly support these changes. In addition, we remain concerned about the type, timing, and location of supervision. While we understand the Department plans to clarify what needs to be observed during a supervision, we request that the rule specifically state that the supervision be done in a culturally appropriate and trauma-informed manner so that there is no confusion during a future licensing survey.

**"Reasonable" reporting** (Section 8)

As noted by Representative Zager during the public hearing, the term "reasonable" already exists in the Adult Protective Services Act:

- §3477. Persons mandated to report suspected abuse, neglect or exploitation
1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited.

Additionally, if one searches the word "reasonable" within the Maine State Statutes, the term is found hundreds of times. We ask that the term be applied in the licensing rules to the misappropriation of client property. We agree that this should not be applied to allegations of client abuse, client neglect, or exploitation.

**Service plan signatures** (Section 9)

The number and variety of documents related to client care that are considered to be part of a "service plan" can make the requirement for a client signature on any change to be extreme. Some service plans simply list items like "extensive toileting and showering" while others set a specific number of showers per week or the types of food that should be prepared for the client. The latter type of service plan changes regularly during a client visit or a verbal check-in with the family. Based on Mr. Montejo's testimony and the experience of our caregivers, we recommend that the licensing rules better define what constitutes the "service plan" versus an auxiliary document that does not require client or guardian signatures.

Thank you for your further consideration of this information. I will be in attendance at the work session and would be happy to answer any questions at that time

Sincerely,



Bev Uhlenhake  
On behalf of the Maine Association of Personal Care Agencies