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Testimony of the Division of Licensing and Certification
Maine Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In opposition to LD 1720, *An Act Regarding Benefits and Training for Long-term Care Workers*

Sponsor: Senator Talbot-Ross
Hearing Date: May 2, 2025

Senator Ingwersen, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services, my name is Bill Montejo, and I serve as the Director of the Division of Licensing and Certification (DLC) in the Maine Department of Health and Human Services. I am here today to testify in opposition to LD 1720, *An Act Regarding Benefits and Training for Long-term Care Workers*.

While the intent of this bill does include multiple provisions related to the extension of public sector benefits to private sector employees, the focus of my testimony is related to the bill's sections related to Certified Nursing Assistant (CNA) training and examination administration.

The current federal regulations at 42 CFR §483.152 (Requirements for approval of a nurse aide training and competency evaluation program) include a requirement for state reimbursement of the cost of a Certified Nursing Assistant (CNA) course to a facility provided certain requirements are met:

42 CFR §483.152(c) Prohibition of charges:

“(1) No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide training and competency evaluation program may be charged for any portion of the program (including any fees for textbooks or other required course materials).

(2) If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide training and competency evaluation program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.”

Additionally, CMS regulations require that nursing homes provide regular CNA in-service training based on each CNA's performance review outcome:

“42 CFR §483.35(d)(7) Regular in-service education. The facility must complete a performance review of every nurse aide at least once every 12 months and must provide regular in-service education based on the outcome of these reviews. In-service training must comply with the requirements of §483.95(g).

INTENT §483.35(d)(7) To focus on the performance review requirement and specific in-service education based on the outcome of those reviews for each individual nurse aid.”

In regard to the written CNA exam, the administration of the CNA exam is done in accordance with Federal CMS requirements at 42 CFR §483.154 Nurse aide competency evaluation, which includes:

“(b) Content of the competency evaluation program-(1) Written or oral examinations. The competency evaluation must-

(i) Allow an aide to choose between a written and an oral examination; ...and (v) If oral, must be read from a prepared text in a neutral manner. “

The current CNA written exam was developed in accordance with the Rules for State Board of Nursing (Ch.2, Sec. 380), Chapter 5, REGULATIONS RELATING TO TRAINING PROGRAMS AND DELEGATION BY REGISTERED PROFESSIONAL NURSES OF SELECTED NURSING TASKS TO CERTIFIED NURSING ASSISTANTS, Section 2(D)(1) Qualifications for Admission:

c) Ninth-grade English reading and writing competency level on the Test of Adult Basic education (TABE), Competency Adult Student Assessment System (CASAS), or other competency assessment mechanisms as approved by the Board.

In conclusion, while the written exam is only provided at a ninth-grade English reading level consistent with the Maine State Board of Nursing minimum requirements for student requirements for admission into a CNA course, the federal CMS requirements for exam administration afford all students the ability to request an oral exam. There is nothing in the current federal CMS exam administration that prohibits an oral exam in a language other than English, provided the conditions of 42 CFR §483.154(b)(1)(v) are met.

Thank you for your time and attention. I would be happy to answer any questions you may have and to make myself available for questions at the work session.