



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 support of LD 979, *(EMERGENCY) 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*

Sponsor: Representative Meyer
Hearing Date: April 1, 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 support of LD 979, *(EMERGENCY) 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*.

This Major Substantive rulemaking seeks to repeal and replace the current rule, 10-144 CMR Ch. 113, Regulations Governing the Licensing and Operation of Assisted Housing Programs. The existing rule consists of ten sections that address Assisted Living programs, four levels of Residential Care Facilities, four levels of Private Non-Medical Institutions, and Infection Prevention and Control.

The newly provisionally adopted rule simplifies this structure, replacing the ten sections with just two: Part A, which covers Assisted Living Programs, and Part B, which covers Residential Care Facilities. This streamlined format is designed to enhance licensee understanding and compliance with the rule, while also reflecting changes to 22 MRS §7852 as enacted by PL 2023 c. 176. Providers have requested a streamlined rule for many years.

The updated provisions align with current best practices in assisted housing. While much of the core content from the previous rules remains, several changes and additions have been made.

The Department's overall goal is to adopt a rule that establishes reasonable minimum standards for residents' health and safety regardless of payment source without imposing unreasonable or excessive burdens on providers. Where health and safety could be improved through administrative measures, such as additional documentation or training, the Department determined that the potential benefits of these steps justify the burden on facilities.

In Part B of the proposed rule, the Department initially included increased staffing requirements. After receiving feedback from many facilities that these ratios might hinder their ability to operate, the final rule maintains current ratios in year one and incorporates a more gradual implementation of staffing increases over several years. For those facilities where surveys or investigations show a need for more staff to ensure resident health and safety, the Department can implement conditional licensing or directed plans of correction.

The Department believes that the new rule will lead to better outcomes for residents, providers, and the communities they serve. Throughout the rulemaking process, the Department carefully considered feedback from residents (often received as part of the survey process), advocates, stakeholders, and providers. Licensing's primary role is to establish minimum standards that apply to all providers, regardless of payment source. These standards ensure minimal acceptable quality of care and quality of life, safeguarding individuals in their homes and communities. The Department's responsibility is to establish clear, concise, and effective minimum standards that improve the health and safety of vulnerable Mainers residing in these facilities.

We recognize that there are concerns regarding the level of collaboration between the Department and providers during this process. To address this, the Division of Licensing and the Office of Aging and Disability Services proactively organized a listening session to engage with providers, over a year ago, to discuss the rulemaking process, and outline the timeline. Every assisted living provider listed as the contact on an Assisted Living License was invited to participate in this important session.

A significant amount of effort has gone into this rulemaking, and it aligns closely with the forthcoming HCBS settings licensing rule. We hope that, should the Committee identify areas for improvement, any necessary adjustments can be made without undoing or delaying the entire rulemaking process. This will allow us to continue advancing the critical work of reforming long-term services and supports.

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.