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

Before the Joint Standing Committee on Health and Human

In Support of  
LD 578 – A Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations  
Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention  
and Control, a Major Substantive Rule of the Department of Health and Human Services,  
Division of Licensing and Certification

Hearing Date: March 17, 2021

Senator Claxton, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services, my name is Heather Hyatt and I am the Assistant Director of the Division of Licensing and Certification within the Maine Department of Health and Human Services.

I appreciate the opportunity to support and orient you to LD 578, Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control, a Major Substantive Rule of the Department of Health and Human Services, Division of Licensing and Certification.

This new rule proposes to institute measures to improve and clarify infection surveillance, control, mitigation, and crisis staffing planning in Maine's assisted housing facilities, including assisted living, residential care facilities, and private non-medical institutions.

The Assisted Housing Programs have been growing in their responsibilities to take care of the elderly, infirm and individuals with disabilities since the development of this care model in 1994. Because of policies regarding aging in place, and the natural development of the programs, persons who are more susceptible to infectious diseases are residing more and more in Assisted Housing facilities.

The pandemic has highlighted the urgent need to add provisions related to Infection Prevention and Control that will apply to all types of Assisted Housing Programs subject to licensure under 22 MRS §7801. These provisions are consistent with State and Federal Centers for Disease Control guidance, in response to the increased spread of the 2019 Novel Coronavirus (COVID-19) and will help to mitigate any future outbreaks of novel contagious illnesses.

The new rule adds requirements for infection prevention and control, planning, and prevention measures necessary to increase facility preparedness and reduce the impact of an outbreak, should one occur within a facility. The Department adopted similar provisions for nursing homes. This rulemaking addresses the likelihood of potential similar outbreaks of COVID-19 or other novel contagious illnesses in Maine's assisted housing facilities, including assisted living

and residential care facilities and private non-medical institutions, and the mortal impact of transmission.

In compliance with 22 M.R.S. § 7853(1), the Department developed this rule in consultation with the Long-Term Care Ombudsman Program (LTCOP) and submitted draft rules to Brenda Gallant, Executive Director of the LTCOP, for her review and input.

The facility must establish, implement, and maintain an Infection Prevention and Control Plan (IPCP) to control the transmission of infectious diseases amongst residents, staff, visitors, and other individuals providing services under a contractual arrangement. A.1 The facility must employ or contract with a person with certification or training in IPC to oversee the development and implementation of the IPCP.

Because this is a major substantive rule, the Maine Administrative Procedures Act required that a public hearing be held. Due to the Covid-19 public health emergency, the public hearing was held virtually via ZOOM on Thursday, November 12, 2020. The Department received comments from seven parties, including the Maine Department of Environmental Protection, and made changes to the proposed rule as needed to address those comments. The rule was provisionally adopted on December 31, 2020.

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- a. The certification or training must include the following content areas, at a minimum:
  - i. Standard precautions;
  - ii. Transmission-based precautions;
  - iii. Respiratory protection; and
  - iv. Use of PPE and source control measures.

A.2 The facility must develop a written IPCP.

The development process must include:

- a. A risk assessment and overall program review.
  - a. The risk assessment and program review must include:
    - i. Identification of resources necessary to care for residents during day-to-day operations and emergencies;
    - ii. Identification of any policies/protocols that need to be developed; and
    - iii. Review of current Maine Center for Disease Control and Prevention (MeCDC) standards and federal Center for Disease Control (CDC) guidelines.

Of the 950 licensed Assisted Housing facilities in Maine, there are approximately 100-150 providers that employ the requisite number of employees to meet the criteria of “small business” under 5 MRS §8052. These small businesses are also the homes of thousands of Maine seniors who rely on these businesses to take appropriate actions to prevent a disease outbreak within

their homes and to have appropriate infection control plans and interventions to mitigate the spread and impact of an epidemic or pandemic disease should a case occur within these settings. The assisted housing facilities have incurred additional operating costs responding to this pandemic and the adoption of this rule solidifies the need to formally develop and update plans for Infection Prevention and Control. Each facility needs to have a plan specific to their setting and the needs of their resident population that includes policies and procedures necessary to implement that plan.

Thank you for the opportunity to present to you today about this major substantive rule. Should you have any questions, I will be happy to answer them now or at the work session.