



## **Testimony of Angela Westhoff, President & CEO Maine Health Care Association**

To the Joint Standing Committee on Labor and Housing

April 6, 2023 at 1:00 pm

**Against *LD 1190, An Act to Ensure a Fair Workweek by Requiring Notice of Work Schedules***

Good afternoon Senator Tipping, Representative Roeder, and distinguished members of the Committee on Labor and Housing. My name is Angela Westhoff, and I serve as the President/CEO of the Maine Health Care Association. We represent approximately 200 nursing homes, assisted living, and residential care facilities (also known as Private Non-Medical Institutions or PNMI) across the state. Our mission is to empower members to ensure the integrity, quality, and sustainability of long term care in Maine.

I am here to testify against *LD 1190, An Act to Ensure a Fair Workweek by Requiring Notice of Work Schedules*. This bill, as drafted, requires employers who employ 250 or more employees worldwide to provide hourly employees at least two weeks prior notice of the employees' work schedules, with compensation owed for schedule changes under certain circumstances. It also requires businesses to keep certain records for three years and creates a \$50-a-day fine for non-compliance.

We appreciate the value of employers communicating a clear work schedule to their employees. However, LD 1190's work notice standards are impractical for long term care. Many other industries have a type of flexibility that is entirely unavailable to nursing facilities. For example, if an employee for a restaurant calls out of work, that business can still provide its services. In more severe cases, like when particularly short-staffed, the restaurant can respond by limiting its services or temporarily closing.

Conversely, nursing facilities have none of those options. Regulations require specific staffing-to-patient ratios. If an employee doesn't come to their shift, the facility risks being fined for dropping below the staffing ratio. Medicare's Care Compare rating system also weighs staffing ratios as a key component of its nursing home star rating. Moreover, a nursing home must provide care to its residents 24 hours, seven days a week. Long term care facilities cannot temporarily close their doors when short-staffed. No matter what, we must provide quality care to our residents. Adjusting workers' schedules within two weeks is not our first choice; we'd prefer to provide clear, consistent schedules well in advance. But our facilities must respond to an employee shift cancelation by adjusting others' schedules.

It is no secret that Maine's nursing homes and assisted living facilities are already struggling. Fifteen facilities have closed within the past three years, and the cost of providing long term care already exceeds the reimbursement facilities receive. The latest estimates from BerryDunn suggest Maine's nursing homes will have a \$59,763,003 shortfall in funding for 2023. This bill's financial penalties would undoubtedly increase the shortfall and further strain our industry.

If the committee passes this bill, I request it includes an exception for long term care employers.

Thank you for the opportunity to provide comments today, and I recommend the committee vote against LD 1190.