

Rulemaking Fact Sheet

[5 MRSA §8057-A]

AGENCY: Department of Health and Human Services, Division of Licensing and Certification

NAME, ADDRESS, PHONE NUMBER, E-MAIL OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE TITLE: 10-144 CMR Ch. 113, Regulations Governing the Licensing and Functioning of Assisted Housing Programs

PURSUANT TO 22 M.R.S. § 7853 THIS IS A MAJOR SUBSTANTIVE RULEMAKING

STATUTORY AUTHORITY:

22 M.R.S. § 7853.

DATE, TIME AND PLACE OF PUBLIC HEARING: Because this is a major substantive rulemaking, the APA requires a public hearing be held. 5 M.R.S. §8052(1). Due to the current public health emergency, the public hearing will be held virtually via Zoom from 10 am -12 noon on Thursday, 11/12/20. Participants may join the hearing at <https://us02web.zoom.us/j/85219782122?pwd=N11RMERja1RlZmh5a1lnUTYwMy9QQT09>.

Some devices may require downloading a free app from Zoom prior to joining the public hearing event. The Department requests that any individual requiring special arrangements to attend the hearing contact the Department contact person listed above.

COMMENT DEADLINE: Written Comments will be accepted until 11/22/20, in accordance with 5 MRS §8053.

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

This major substantive rulemaking institutes 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. This rulemaking revises 10-144 CMR Ch. 113, Regulations Governing the Licensing and Functioning of Assisted Housing Programs, which is published in nine parts, by adding a new part. The provisions related to Infection Prevention and Control will apply to all types of Assisted Housing Programs subject to licensure under 22 MRS §7801. These provisions are consistent with State and Federal Center 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.

In compliance with 22 M.R.S. § 7853(1), the Department developed this rule in consultation with the Long-Term Care Ombudsman Program (LTCOP). On June 25, 2020, the Department submitted draft rules to Brenda Gallant, Executive Director of the LTCOP, for her review and input. Department staff and LTCOP Executive Director Gallant and staff discussed the rulemaking on or about June 26, 2020, at which time Executive Director Gallant expressed no concerns regarding the draft rule.

The Department, through OADS, has requested federal CARES Act Covid Relief Funding (CRF) to hire an infection control consultant, who will work with facilities to help them develop an Infection control consultant, who will work with facilities to help them develop an Infection Control and Prevention plan, which will be required by this rule. The Department received approval for the Covid Relief Funding at the end of September, 2020. The Department anticipates that the facilities' plan development/infection control consultation costs will be

defrayed through the CRF. The rule provides a requirement for PPE and supplies, but these measures should have been in place in the facilities in response to the Covid pandemic.

This is a major substantive rulemaking, and this new rule will be provisionally adopted following public comment and review by the Office of the Attorney General. The provisionally adopted rule will not become effective until after Legislative review and approval.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___YES XNO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

The changes to the rule will fall under the ongoing licensing and survey processes of the Division of Licensing and Certification.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]

- Adoption of similar provisions in the recent revision of 10-144 CMR Ch. 110, Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities, effective August 1, 2020 and the likelihood of potential similar incidence of COVID-19 in in Maine's assisted housing facilities, including assisted living and residential care facilities and private non-medical institutions, and the mortal impact of transmission.
- Consultation on infection prevention and control measures necessary for these settings with infection control experts from the Maine Center for Disease Control and the Office of Aging and Disability Services.
- The proposed rule was developed in consultation with the long-term care ombudsman program in accordance with 22 MRS §7853.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]

There will be no additional costs to the Department as a result of this rulemaking.