Department of Health and Human Services
Maine People Living Safe, Healthy and Productive Lives
Paul R. LePage, Governor
Mary C. Mayhew, Commissioner

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January 30, 2014

Senator Margaret M. Craven, Chair
Representative Richard R. Farnsworth, Chair
Members of the Joint Standing Committee on Health and Human Services
#100 State House Station
Augusta ME 04333-0100

Re: Resolve 2011, Chapter 35 (LD 537) (Resolve, To Design and Implement a Demonstration Project on Recertification of Certified Nursing Assistants)

Dear Senator Craven, Representative Farnsworth and Members of the Joint Standing Committee on Health and Human Services:

The attached report is being submitted pursuant to Resolve 2011, Chapter 35 (LD 537) (Resolve, To Design and Implement a Demonstration Project on Recertification of Certified Nursing Assistants). This report summarizes the issues, the work that has been done to date and outlines further implementation plans.

Please feel free to contact Kenneth Albert, Director of the Division of Licensing and Regulatory Services, if you have any questions about this report.

Sincerely,

Mary C. Mayhew
Commissioner

MCM/klv

Attachment

Department of Health and Human Services

Maine People Living Safe, Healthy and Productive Lives

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Resolve 2011, Chapter 35 (LD 537) – Resolve, To Design and Implement a Demonstration Project on Recertification of Certified Nursing Assistants

Submitted by:

Maine Department of Health and Human Services
#11 State House Station
Augusta, ME 04333-0011

This report is being submitted in response to Resolve 2011, Chapter 35 (LD 537). A copy of the resolve is attached.

Summary:

This bill seeks mitigation of continuing education requirements for individuals who are active on the Certified Nursing Assistant Registry (CNA Registry) but no longer working as a Certified Nursing Assistant (CNA). That requirement is for an individual to work 8 hours as a CNA every 24 months. One option that is currently available is for those individuals to test-out of that requirement. Another option is to seek employment in a setting that employs CNAs.

The Department proposes to do further work on this measure as part of other on-going and related work through a grant developing core competencies for certain categories of direct care workers.

Background:

Certified Nursing Assistants:

Maine law and regulations sets forth requirements for certification of individuals working as Certified Nursing Assistants (CNAs). A CNA is a person who performs selected nursing services under the supervision of a registered professional nurse. A CNA must successfully complete a Maine training program and hold a certificate of training. A person may also qualify if they have been comparably trained in another jurisdiction or otherwise meets Maine's eligibility requirements for placement on the CNA registry.

The CNA registry is a registry maintained by the Department of Health and Human Services (DHHS), Division of Licensing and Regulatory Services (DLRS), that contains a listing of active CNAs who are qualified to work in Maine, and a list of inactive CNAs who do not qualify for employment as a CNA in Maine at that current time. The registry also contains other information such as criminal convictions as required by law and documented findings by DLRS of substantiated complaints of abuse, neglect or misappropriation of property of a patent, client or resident.

Generally, once an individual is active as a CNA on the Registry, the individual must submit a completed renewal form and required documentation on or before his or her birthday every 24 months. As part of that submission, the CNA must submit documented proof of qualified employment for monetary compensation for a minimum of eight hours within the last 24 consecutive months under the supervision of a registered nurse in a health care setting, in the capacity of a CNA on a full time or part time basis. It is the latter requirements that this bill addresses.

Personal Support Specialists:

In contrast to the requirements regarding CNAs, Personal Support Specialists (PSSs) are known as unlicensed assistive personnel. There is no requirement to be listed on a Registry and a PSS does not work under the supervision of a registered professional nurse. Generally, in order to be recognized as a PSS, which is a training requirement for many publically funded programs, an individual must successfully complete a 50 hour training course. There are also a limited number of test out options depending on the individual's other training experiences. Individuals who work under the self-directed option are referred to as attendants. Attendants are not required to meet PSS qualifications.

In some cases, a CNA may choose to work as a PSS or an attendant, but the roles of the CNA and the PSS or attendant are separate ones. Working as a PSS cannot be recognized as part of the 8 hour period a CNA is required to work as a CNA to be active on the CNA registry. In part, this is because a PSS does not work under the supervision of a registered professional nurse as is required by the CNA regulations.

Current status and next steps:

Pursuant to the directive of this bill, a meeting was held July 18, 2012, with staff from the Office of Aging and Disability Services, the Division of Licensing and Regulatory Services, the Long Term Care Ombudsman, the Maine Health Care Association and other interested stake holders to review this bill. There was an overall general consensus that no significant changes in the current system were needed to address the issues raised by this bill although alternatives to the current process were discussed.

One option available for individuals who have not met the 8 hour period of working as a CNA within a 24 months period is a test out option. This option was designed in part for the situation sought to be addressed by this bill; namely, for individuals who have trained in Maine as a CNA but have not worked as a CNA in the preceding 24 months. The relevant regulation reads (bold added):

> **3.2.3 Test for non-traditional CNAs.** The test for non-traditional CNAs may be taken by qualified CNAs, including but not limited to:
>
> **3.2.3.1 A CNA trained in Maine who has not worked as a CNA for at least 8 hours in the preceding 24 months; or**
>
> 3.2.3.2 A CNA who received training in another jurisdiction that is at least equal to the Maine minimum of approved CNA training required by these rules; or

3.2.3.3 An individual trained as a CNA, or its equivalent, while serving in the United States Armed Services who completed training that is at least equal to the Maine minimum of approved CNA training required by these rules.

This is one option that may be utilized for maintaining an active status on the CNA Registry if an individual has not worked in his or her capacity as a CNA for 8 hours within the last 24 months.

The other recommendation of the group was to continue to work with Maine Health Care Association to solicit interest on a voluntary basis from nursing facility providers who are willing to hire individuals on a short term basis who are in need of this continued training.

The Department intends that additional work on this bill be considered as part of other on-going work regarding direct care worker training curricula being done through a federal grant with the Health Resources and Services Administration (HRSA), part of the U.S. Department of Health and Human Services. This grant has been working to develop and pilot training curriculum statewide based on core competencies for three categories of direct care workers (the PSS, the MRHT-1 and the DSP). Development of statewide training based on core competencies will better allow workers to transition and lattice across settings while at the same time better meeting the complex and changing needs of the individuals we serve. This grant is currently in the fourth year under a no cost extension and some of the outstanding issues being addressed this year concern continuing education training standards for direct care workers, which is the primary issue underlying LD 537.