

November 3, 2021

## WEEKLY NOTICES OF STATE RULEMAKING Public Input for Proposed and Adopted Rules

<https://www.maine.gov/sos/cec/rules/notices/2021/110321.html>

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one -- the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions:** you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 Section 11112). **World-Wide Web:** Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: <http://www.maine.gov/sos/cec/rules>. There is also a [list of rulemaking liaisons](#), who are single points of contact for each agency.

AGENCY: **16-163** - Department of Public Safety (DPS), **Bureau of Maine Emergency Medical Services (EMS)**

CHAPTER NUMBER AND TITLE: **Ch. 21** (*New*), Immunization Requirements for EMS Personnel

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P207**

**BRIEF SUMMARY:** Ch. 21 is a new chapter to be added to the Maine EMS Rules. The purpose of this rule is to adopt a list of vaccine preventable diseases for which licensees must obtain immunization or provide appropriate exemption documentation. No Entity may permit a Covered Emergency Medical Services Person to provide Direct Patient Care as defined by the rule without a Certificate of Immunization, or documentation of an Exemption pertaining to the Diseases enumerated in the Chapter after the Effective Date required by this chapter. New employees must have begun the COVID-19 series, or have an approved medical exemption, prior to employment, and will have three months to come into compliance with the remaining immunizations identified in this rule. Required vaccines include rubeola, mumps, rubella, varicella, hepatitis B, influenza, and COVID-19.

**DETAILED SUMMARY:**

- **Definitions**

1. "Certificate of Immunization" means a written statement from a physician, nurse practitioner, physician assistant or other health care provider who has administered an immunization to a Covered Emergency Medical Services Person, specifying the vaccine administered and the date it was administered.
2. "Covered Emergency Medical Services Person" means an advanced emergency medical services person, a basic emergency medical services person or any person who routinely provides Direct Patient Care. For the purposes of this definition, EMS students that provide Direct Patient Care are Covered Emergency Medical Services Persons.
3. "Direct Patient Care" means any activity that places an individual within 6 feet of a patient for a period of 15 minutes or more.
4. "Disease" means the following conditions which may be preventable by immunization:
  1. Rubeola (measles);
  2. Mumps;
  3. Rubella (German measles);
  4. Varicella (chicken pox);

5. Hepatitis B.;
6. Influenza; and
7. COVID-19.
5. "Effective Date" means full immunization for Rubeola, Mumps, Rubella, Varicella, Hepatitis B, and Influenza by 1/1/2024, and COVID-19 by 12/1/2021.
6. "Entity" means an organization which holds a license issued by the Board that authorizes it as an organization to provide emergency medical services, or a training center licensed by the Board.
7. "Exemption" means a formal procedure to procure discharge from the requirement to vaccinate under this rule in accordance with Section 3 below.
8. "Immunization" means a vaccine, antitoxin or other substance used to increase an individual's immunity to Disease.

## • Immunization Required

1. Each Entity with which a Covered Emergency Medical Services Person is associated must require that the Covered Emergency Medical Services Person provide to the Entity a Certificate of Immunization or documentation of an Exemption pertaining to the Diseases enumerated in the Chapter.
2. No Entity may permit a Covered Emergency Medical Services Person to provide Direct Patient Care without a Certificate of Immunization, or documentation of an Exemption pertaining to the Diseases enumerated in the Chapter after the Effective Date required by this chapter. **New employees must have begun the COVID-19 series, or have an approved medical exemption, prior to employment, and will have three months to come into compliance with the remaining immunizations identified in this rule.**
3. The number and timing of immunization administrations shall be in accordance with the applicable immunization manufacturer's dosing specification or labelling.
4. Any such immunization must meet the standards for biological products which are approved by the United States Public Health Service.

## • Exemptions

1. A Covered Emergency Medical Services Person who does not obtain a Certificate of Immunization may be permitted to provide direct patient care if that Covered Emergency Medical Services Person possesses an Exemption.
2. An Exemption is available to a Covered Emergency Medical Services Person who provides a written statement from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against any of the Diseases enumerated in this Chapter may be medically inadvisable, provided that, the Covered Emergency Medical Services Person has an established patient-qualified provider relationship with the provider issuing the written statement.

### 4. Record Keeping

1. An Entity must keep a record of the immunization status of each Covered Emergency Medical Services Person associated with the Entity. The record must include, at a minimum, the month and year that each immunization was administered.
2. Where an Exemption has been granted to a Covered Emergency Medical Services Person, the Entity must maintain the written documentation of the Exemption on file.
3. Each Entity must maintain a listing of the names of all Covered Emergency Medical Services Person associated with the Entity who are not currently immunized against Diseases enumerated in the Chapter. The list must also include the names of all Covered Emergency Medical Services Persons with Exemptions.
4. All records required under this chapter shall be deemed, for the purposes of public access, confidential medical records under statute. Notwithstanding this statement, the Board may obtain and disclose records required under this chapter in accordance with 32 M.R.S. § 91-B.

### 5. Required Reports

#### 1. Periodic Reporting

Each Entity must, on an annual basis, submit a summary report on the immunization status of all Covered Emergency Medical Services Persons associated with the Entity on a form prescribed by Maine EMS no later than December 15th of that year. The summary report will include the following information at a minimum: specific contact information identifying the Entity, the total number of Covered Emergency Medical Services

Persons who are immunized, the total number of Covered Emergency Medical Services Persons who possess Exemptions, and the total number of Covered Emergency Medical Services Persons who do not possess a Certificate of Immunization or an Exemption. Each report must be signed by a representative of the Entity as a certification that the information is accurate.

## 2. Additional Requests

An Entity must provide to the Board, within 48 hours of the request, any requested information pertaining to those Covered Emergency Medical Services Persons who do not possess a Certificate of Immunization or an Exemption. Such information shall be subject to the confidentiality provisions of 32 .RS §91-B.

**PUBLIC HEARING:** November 22, 2021, 6:00 p.m. *The hearing will be held through remote access pursuant to 32 MRS §88 (2) (B). The information needed to access the hearing remotely will be posted on the Board's website at: <https://www.maine.gov/EMS> .*

*A second hearing will be held November 23, 2021, 9:00 a.m. The hearing will be held through remote access pursuant to 32 MRS §88 (2) (B). The information needed to access the hearing remotely will be posted on the Board's website at: <https://www.maine.gov/EMS> . The hearing may be continued on additional dates if necessary.*

*Comments on the proposed rules may be submitted to the staff rules representative no later than 11:59 p.m., December 3, 2021 by emailing [griffin.z.bourassa@maine.gov](mailto:griffin.z.bourassa@maine.gov) or by mailing your comments to Maine Board of Emergency Medical Services, Attn: Griffin Bourassa, 152 State House Station, Augusta, ME 04333.*

COMMENT DEADLINE: December 3, 2021, 11:59 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / EMS RULEMAKING LIAISON: Griffin Bourassa, Maine Emergency Medical Services, 152 State House Station, Augusta, ME 04333. Telephone: (207) 626-3864. Fax: (207) 287-6251. Email: [Griffin.Z.Bourassa@Maine.gov](mailto:Griffin.Z.Bourassa@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 81-A, 84, 88

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

EMS WEBSITE: <https://www.maine.gov/ems/> .