**State of Maine: Notice of Agency Rulemaking – February 7, 2024**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

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 §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 (<http://www.maine.gov/sos/cec/rules/liaisons.html>), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **03-201 - Maine Department of Corrections**

CHAPTER NUMBER AND TITLE: **Ch. 10,** Subsection 27.2, Supervised Community Confinement

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P030**

BRIEF SUMMARY: The Department proposes to amend Ch. 10, Supervised Community Confinement. The primary reason this rule is being proposed for amendment is to address a statutory change that makes a resident eligible for the supervised community confinement program (SCCP) if they have a worsening prognosis that is likely to result in a terminal or severely incapacitating medical condition. Other proposed amendments will clarify reasons for denying approval to SCCP as they relate to victim safety; will add a requirement of notifying a domestic violence resource center if a resident who is in custody for a domestic violence crime is approved for transfer to SCCP; will clarify that a client on SCCP is not allowed to travel out of state without the written permission of their probation officer; will clarify that a client may be removed from SCCP without notifying the Director of Adult Community Corrections if a probation supervisor thinks it is necessary; and will make other clarifications.

 A copy of the proposed rule is available upon request by contacting the Department contact person or on the Department of Corrections website at <https://www.maine.gov/corrections/policies>

PUBLIC HEARING: February 27, 2024, from 1:00 p.m. to 3:00 p.m.

This hearing will be conducted via a Microsoft Teams virtual meeting. Anyone wishing to attend should join the Microsoft Teams meeting accessible at this link [https://teams.microsoft.com/l/meetup-join/19%3ameeting\_NDliYWU2N2MtZDk5Mi00NDhkLWE1ZDUtYzdlZTU1NTNjMGY3%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%2242c132ed-0ac6-4d91-b911-cee298c26912%22%7d](https://teams.microsoft.com/l/meetup-join/19%3Ameeting_NDliYWU2N2MtZDk5Mi00NDhkLWE1ZDUtYzdlZTU1NTNjMGY3%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%2242c132ed-0ac6-4d91-b911-cee298c26912%22%7d)

In addition, directions on how to attend the hearing will be posted on the Department of Corrections website and sent upon request to interested persons.

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed above before February 23, 2024.

COMMENT DEADLINE: March 11, 2024

Written comments may be submitted by mail, e-mail, or fax to the contact person before the end of the comment period. To ensure the comments are considered, they must include the name of the commenter and the organization represented, if any.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Mary Lucia, Department of Corrections, 111 SHS, Augusta ME 04333. Phone: (207) 530-0983, Fax: (207) 287-4370. Email: Mary.A.Lucia@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:  None

STATUTORY AUTHORITY FOR THIS RULE: Ch. 10, Subsection 27.2, Supervised Community Confinement: 34-A MRSA Section 3036-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: <https://www.maine.gov/corrections/>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Mary.A.Lucia@maine.gov

AGENCY: **02-371** - Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, **Nursing Home Administrators Licensing Board**

CHAPTER NUMBER AND TITLE: **New: Ch. 20,** Definitions; **Ch. 21,** Advisory Rulings; **Ch. 22,** Administrator-in-Training Program for Multi-level Long Term Care Facility Administrators; **Ch. 23,** Multi-level Long Term Care Facility Administrators: Licensure by Examination; **Ch. 25,** Licensure of Nursing Home Administrators; **Ch. 26,** Licensure of Residential Care Facility Administrators ; **Ch. 27,** Temporary Licensure of Administrators; **Ch. 28,** License Renewal, Continuing Education and Inactive Status; **Ch. 29,** Approval of Preceptor Training Programs; **Ch. 30,** Code of Ethics.

**Repeal: Ch. 1,** Definitions; **Ch. 2,** Nursing Home Administrators; **Ch. 3,** Residential Care Facility Administrators; **Ch. 4,** Multi-Level Long Term Care Facility Administrators; **Ch 5,** Licensing; **Ch. 6,** Endorsement; **Ch. 7,** Temporary Licenses; **Ch. 8,** Continuing Education; **Ch. 9,** Advisory Rulings; **Ch. 10,** Fees; **Ch. 11,** Code of Ethics

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P031 to 2024-P051**

DETAILED SUMMARY: The proposed rulemaking will repeal the existing rules for the Board of Nursing Home Administrators, Chapters 1 through 11, and replace with the proposed Chapters 20 through 23, and Chapters 25 through 30. Chapter 24 is reserved for a rule to establish licensure by endorsement pursuant to 10 M.R.S. § 8003-H.

The proposal to recodify the Board’s rules is as follows:

Chapter 1, Definitions, will be repealed and replaced with Chapter 20, Definitions; Chapter 2, Nursing Home Administrators, will be repealed and replaced by Chapter 22, Administrator-in-Training Program for Multi-level Long Term Care Facility Administrators; Chapter 3, Residential Care Facility Administrators will be repealed and replaced with Chapter 26, Licensure of Residential Care Facility Administrators; Chapter 4, Multi-Level Long Term Care Facility Administrators will be repealed and replaced with Chapter 23, Multi-level Long Term Care Facility Administrators: Licensure by Examination; Chapter 5, Licensing, will be repealed and replaced with Chapter 25, Licensure of Nursing Home Administrators; Chapter 7, Temporary Licenses, will be repealed and replaced with Chapter 27, Temporary Licensure of Administrators; Chapter 8, Continuing Education, will be repealed and replaced with Chapter 28, License Renewal, Continuing Education and Inactive Status; Chapter 9, Advisory Rulings will be repealed and replaced with Chapter 21, Advisory Rulings; Chapter 11, Code of Ethics, will be repealed and replaced with Chapter 30, Code of Ethics. The new proposed rulemaking will add Chapter 29, Approval of Preceptor Training Programs.

The Board proposes to repeal Chapter 6, Endorsement and Chapter 10, Fees.

**Chapter 20: Definitions**

The proposed rule defines specialized terms used in the Board’s rules. The Board updated the definitions currently found in Chapter 1 of the Board’s existing rules, adds new terms and removes the definition of “Board” because it is defined in statute.

**Chapter 21: Advisory Rulings**

The proposed rule provides for the discretionary issuance of advisory rulings by the Board. The Board updated the provisions currently found in Chapter 9 of the Board’s existing rules to conform to advisory ruling chapters of other boards, in accordance with 5 M.R.S. § 9001.

**Chapter 22: Administrator-in-Training Program for Multi-level Long Term Care Facility Administrators**

The proposed rule describes the Administrator-In-Training (“AIT”) program that must be completed by persons applying for licensure by examination as a multi-level long term care facility administrator. The Board revised and updated the provisions currently found in Chapter 2, Section 2 of the Board’s existing rules.

The proposed rule provides the following: a clarified waiver provision for persons who have completed an academic internship or practicum that is similar to an AIT program; the practice areas that must be covered by the program; the program length which has been decreased from 1,040 hours to 1,000 hours; an outline of the training site and rotation requirements; a progress report requirement; a prohibition on multiple roles while a person is an AIT; and updated qualifications and responsibilities of a preceptor who supervises an AIT.

**Chapter 23: Multi-level Long Term Care Facility Administrators: Licensure by Examination**

The Board revised and updated the provisions currently found in Chapter 4 of the Board’s existing rules. The proposed rule sets forth requirements for licensure by examination as a multi-level long term care facility administrator and provides the following: scope of practice; a list of examination approval and application for licensure requirements; and the required form of application. The proposed rule requires individuals applying for the multi-level long-term care facility administrator license to achieve a passing score on the CORE of Knowledge Exam for Long Term Care Administrators (CORE), the Nursing Home Administrators (NHA) Line of Service Exam (LOS), and the Residential Care/Assisted Living (RCAL) Line of Service (LOS) Exam developed by NAB.

**Chapter 25: Licensure of Nursing Home Administrators**

The proposed rule addresses the nursing home administrator license, which the Board proposes to phase out. The Board would no longer issue new nursing home administrator licenses but would allow any individual who holds such a license in Maine to continue to renew that license. The proposed rule also provides that individuals who hold a valid nursing home administrators license and have passed the r Residential Care/Assisted Living (RCAL) LOS Exam developed by NAB to obtain a multi-level long term care facility administrator license.

**Chapter 26: Licensure of Residential Care Facility Administrators**

The proposed rule sets forth the requirements for licensure of residential care facility administrators. The Board revised and updated the provisions currently found in Chapter 3 of the Board’s existing rules.

The proposed rule provides the following: scope of practice; a list of requirements to qualify for examination (which includes a new educational requirement that requires an Associate’s degree in health care administration or health care related field **or** 5 years of experience working in a healthcare facility and a passing score on the CORE of Knowledge Exam for Long Term Care Administrators (CORE) and the Residential Care/Assisted Living (RCAL) LOS Exam developed by NAB; and application for licensure requirements.

**Chapter 27: Temporary Licensure of Administrators**

The proposed rule sets forth the requirements for temporary licensure of multi-level long term care facility administrators and residential care facility administrators. The Board revised and updated the provisions currently found in Chapter 7 of the Board’s existing rules.

The proposed rule allows the issuance of a temporary administrators license to an applicant who meets the following requirements: is at least 21 years old; possesses a high school diploma or its equivalent; and provides a resume showing one of the following: the applicant is the current director of nursing at the multi-level long term care facility and has held the position for a minimum of 1 year; or the applicant has a minimum of 2 years of experience in a managerial position in a long term care facility within the 5 years preceding the application. A Licensed Administrative Consultant (“LAC”) must be hired to supervise the temporary licensee and submit monthly reports to the Board documenting the hours spent with the temporary licensee, content supervised and domains covered.

**Chapter 28: License Renewal, Continuing Education and Inactive Status**

The proposed rule describes the license renewal process, the continuing education requirement, and inactive status licensure. Inactive status license authorized by 10 M.R.S. § 8003(5-A)(D)(5), is new to the Board’s rules.

The Board revised and updated the provisions on continuing education that are currently found in Chapter 8 of the Board’s existing rules. The proposed rule simplifies the continuing education requirement by eliminating the Board approval process and placing the responsibility on licensees to obtain continuing education hours that meet the criteria set forth in rule. Licensees will then certify at the time of license renewal to completion of the requisite continuing education hours, and certifications will be subject to audit, as set forth in Chapter 13 of the rules of the Office of Professional and Occupational Regulation.

The proposed rule does not change the number of continuing education hours required for nursing home administrators and multi-level long term care administrators, however, the proposed rule does increase the number of continuing education hours that residential care facility administrators must obtain each year from 12 hours to 16 hours due to the history of Board complaints pertaining to residential care facility administrators and the increasing complexity of the role of a residential care facility administrator and need for education.

The Board’s existing rules provide a waiver provision that allows the board to waive the continuing education requirement for a licensee in the event of a prolonged illness or other documented hardship. The Board proposes to modify the language to “health circumstances or other unforeseeable circumstances of genuine hardship” and to add the option of deferment, as specifically authorized by 10 M.R.S § 8003(5-A)(D)(4), which will allow the Board to require that a licensee defer the required continuing education hours to a later date.

**Chapter 29: Approval of Preceptor Training Programs**

This chapter sets forth the requirements for preceptor training and incorporates the AIT Preceptor Module Course administered by NAB by reference.

**Chapter 30: Code of Ethics**

The proposed rule establishes a code of ethics for all licensees, adapted from the Code of Ethics of the American College of Health Care Administrators. The Board revised and updated the code of ethics currently found in Chapter 11 of the Board’s existing rules. In updating the code of ethics, the Board proposes adding a section that notifies licensees that a violation of the code of ethics may subject them to disciplinary action under 10 M.R.S. § 8003(5-A)(A)(2).

PUBLIC HEARING: Wednesday, February 28, 2024 from 12:00 -1:00 p.m. at 76 Northern Avenue, Gardiner, ME. Members of the public will also have the opportunity to attend and participate via remote means. Instructions on remote access and a link will be posted on the board’s webpage in advance of the hearing at: <https://www.maine.gov/pfr/professionallicensing/professions/nursing-home-administrators-licensing-board/home/board-meeting-information>

COMMENT DEADLINE: Friday, March 29, 2024 at 5:00 p.m. Written comments may be submitted to the contact person for this filing. For a copy of the proposed rule and rulemaking documents, please visit <https://www.maine.gov/pfr/professionallicensing/professions/nursing-home-administrators-licensing-board> and scroll down to “What’s New.”

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Holly Poirier, Regulatory Board Manager, 35 State House Station, Augusta, ME 04333-0035, Holly.Poirier@maine.gov, Telephone: (207) 592-0434, fax (207) 624-8637, TTY users call Maine Relay 711.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 5 M.R.S. § 9001; 10 M.R.S. § 8003(5-A)(G); 32 M.R.S. §§ 63-B(2), (3), 65, 67

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/nursing-home-administrators-licensing-board>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kristin.Racine@maine.gov

AGENCY: **94-270 - Commission on Governmental Ethics and Election Practices**

CHAPTER NUMBER AND TITLE: **Ch. 1,** Procedures

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P052**

BRIEF SUMMARY: On November 7, 2023, Maine voters approved a new law, 21-A M.R.S. § 1064, which forbids foreign governments and businesses or associations they own or control from making expenditures to influence candidate and ballot question elections in Maine. The proposed amendment defines terms that will provide guidance to regulated constituencies concerning the prohibitions and requirements in the new law. The amendment sets out certain features that would constitute compliant policies, procedures, and controls for media providers, and establishes enforcement policies intended to promote proportional outcomes for unintentional violations.

PUBLIC HEARING: Wednesday, February 28, 2024 @ 9:00 a.m., Commission Office, 45 Memorial Circle, Second Floor, Augusta, Maine

COMMENT DEADLINE: 5:00 p.m. on Monday, March 11, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Julie Aube, Commission Assistant, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, ME 04333. Telephone: (207) 287-4179, Fax: (207) 287-6775. Email: Julie.Aube@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: No impact

STATUTORY AUTHORITY FOR THIS RULE:M.R.S.A § 1003(1); 21-A M.R.S.A. § 1064

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: None

AGENCY WEBSITE:<http://www.maine.gov/ethics>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Julie.Aube@maine.gov

AGENCY: **16-163 –** Department of Public Safety, **Maine Emergency Medical Services**

CHAPTER NUMBER AND TITLE: **Ch. 2,** Definitions

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P053**

BRIEF SUMMARY: The Emergency Medical Services’ Board (“Board”) is seeking to amend its rules to add two definitions; defining “Routinely” as it is used throughout the Board’s rules to clarify a threshold for the number of calls for service that an agency may respond to before their response is considered “routine”. The Board is also defining a “9-1-1 Primary Response Area” to clarify and operationalize proposed changes to Chapter 3 of the Board’s rules.

PUBLIC HEARING: None

 A hearing may be requested by the petition of no less than 5 interested persons through the submission of such petition in writing to Maine EMS, ATTN: Rulemaking, 152 State House Station, Augusta, ME 04333.

 Comments on the proposed rules may be submitted to the Maine EMS no later than 11:59 p.m., March 8, 2024.  Interested parties may submit comments to Maine EMS in the following manners:

* Navigating to https://www.maine.gov/ems/ and filling out our “Maine EMS Rules Public Comment Submission” form (Preferred)
* By email to: rulemaking.maineems@maine.gov
* In writing: Send comments to Maine Emergency Medical Services Attn.: Rulemaking, 152 State House Station, Augusta, ME 0433-0152

COMMENT DEADLINE: Friday, March 8, 2024, at 11:59 P.M.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Jason J. Cooney, 152 State House Station, Augusta, ME 04333-0152. Telephone: 207-626-3864, TTY: 207-287-3659, Fax: 207-287-6251. Email: Jason.J.Cooney@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §84.1, 32 M.R.S. §88.2.B

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: None

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Jason.J.Cooney@maine.gov

AGENCY: **16-163 –** Department of Public Safety, **Maine Emergency Medical Services**

CHAPTER NUMBER AND TITLE: **Ch. 3,** Ground Ambulance Service and Non-Transporting Service Licenses

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P054**

BRIEF SUMMARY: The Board of Emergency Medical Services is proposing to amend its current rules regarding the licensure of Ambulance and Non-Transporting service licenses to adopt rules addressing the evaluation of a need for any new ambulance service in the State before granting a license and provide for an appeal process for any decision made by the Board as required by PL 2021, c. 241, §4, to make technical changes addressing spelling, grammar, format, and duplication of rule language found in other chapters of rule, and to adopt rules requiring entities licensed under this chapter to establish a written driver training program or standard operating procedure for the operation of ambulances and emergency medical service vehicles licensed by Maine EMS.

PUBLIC HEARING: None

 A hearing may be requested by the petition of no less than 5 interested persons through the submission of such petition in writing to Maine EMS, ATTN: Rulemaking, 152 State House Station, Augusta, ME 04333.

 Comments on the proposed rules may be submitted to Maine EMS no later than 11:59 pm, March 8, 2024.

Interested parties may submit comments to Maine EMS in the following manner:

* By Navigating to <https://www.maine.gov/ems> and filling out our “Maine EMS Rules Public Comment Submission” form (Preferred)
* By email to: rulemaking.maineems@maine.gov
* In writing to: Maine Emergency Medical Services, ATTN: Rulemaking, 152 State House Station, Augusta, ME 04333

COMMENT DEADLINE: Friday, March 8, 2024, at 11:59 pm.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Jason J. Cooney, 152 State House Station, Augusta, ME 04333-0152. Telephone: 207-626-3864, TTY: 207-287-3659, Fax: 207-287-6251. Email: Jason.J.Cooney@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: Maine EMS anticipates that the fiscal impact that the promulgation of this rule, or compliance with this rule will have will be minor for those municipalities or counties that have preexisting EMS services delivered. Maine EMS anticipates that for those municipalities or counties seeking to establish or change those services, there could be a fiscal impact of between $15,000 and $50,000 for a third-party disinterested consultant report needed for compliance with the rule.

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §84(1), 32 M.R.S. §86(1)(A).

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: https://www.maine.gov/ems/

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Jason.J.Cooney@maine.gov

AGENCY: **16-163 –** Department of Public Safety, **Maine Emergency Medical Services**

CHAPTER NUMBER AND TITLE: **Ch. 25,** Implementing the Emergency Medical Services Stabilization Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P055**

BRIEF SUMMARY: The Board of Emergency Medical Services is proposing this rule to implement the provisions of 32 M.R.S §89 regarding financial assistance to emergency medical services entities at immediate risk of failing and leaving their communities without access to adequate emergency medical services. On December 13, 2023, an emergency rule implementing this program was effective, which remains in effect for 90 days; the Board is proposing this rule as the finalized program.

PUBLIC HEARING: None.

 A hearing may be requested by the petition of no less than 5 interested persons through the submission of such petition in writing to Maine EMS, ATTN: Rulemaking, 152 State House Station, Augusta, ME 04333.

 Comments on the proposed rules may be submitted to Maine EMS no later than 11:59 pm, March 8, 2024.

 Interested parties may submit comments to Maine EMS in the following manner:

* By Navigating to https://www.maine.gov/ems and filling out our “Maine EMS Rules Public Comment Submission” form (Preferred)
* By email to: rulemaking.maineems@maine.gov
* In writing to: Maine Emergency Medical Services, ATTN: Rulemaking, 152 State House Station, Augusta, ME 04333

COMMENT DEADLINE: March 8, 2024, at 11:59 P.M.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Jason J. Cooney, 152 State House Station, Augusta, ME 04333-0152. Telephone: 207-626-3864, TTY: 207-287-3659, Fax: 207-287-6251. Email: Jason.J.Cooney@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: Maine EMS estimates that this rule will introduce $12,000,000 into licensed eligible EMS entities throughout the State of Maine and that this funding will stabilize the operations of these entities, which currently operate at a net loss. Maine EMS estimates that this funding will have an impact on the wages of EMS clinicians, which will cause downstream effects within the communities in which these clinicians reside. Maine EMS estimates that these funds will be spent within the State of Maine, which will have an impact on the municipalities served by eligible entities.

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §84.1, 32 M.R.S. §98

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: None

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Jason.J.Cooney@maine.gov

**ADOPTIONS**

AGENCY: 15-214 – Maine Department of Defense, Veterans and Emergency Management, **Maine Emergency Management Agency**

CHAPTER NUMBER AND TITLE: **Ch. 2,** Rules for Establishing Fees for Reporting under the Superfund Amendments and Reauthorization Act of 1986 and Title 37-B Sec. 801, M.R.S. Chapter 13

ADOPTED RULE NUMBER: **2024-021**

CONCISE SUMMARY: This would increase the registration fee paid by facility owners and operators of hazardous materials in the State of Maine as reported to the State Emergency Response Commission (SERC) pursuant to the Superfund Amendments and Reauthorization Act of 1986 and 37-B Sec. 801 M.R.S, Chapter 13. This rule would authorize the Director of Maine Emergency Management Agency, with the advice of the State Emergency Response Commission, to change the current fee amount and fee schedule. The registration fee set by the Commission has not been changed since it was implemented in 2002; the inventory fee was changed by rulemaking in 2021. Due to cost of inflation, the Commission struggles to maintain an adequate level of funding for County Emergency Management Agencies, State-funded Hazardous Materials Response Teams, and local trainings for first responders. This increase in the current fee schedule would allow the State Emergency Response Commission to fund local first responder trainings, equipment, planning activities and outreach to help facilities prepare for and respond *to* hazardous material incidents. Without the increased fee, the Commission may have tocut back on funding these critical hazardous materials response teams and first responders, potentially reducing the State's ability to prepare for and respond *to* hazardous materials incidents.

EFFECTIVE DATE: February 4, 2024

AGENCY CONTACT PERSON:Faith Staples, Maine Emergency Management Agency, 72 State House Station, Augusta, Maine 043330-0021. Telephone:(207) 624-4400 or (207) 557-3675. Email: Maine.Serc@maine.gov.

AGENCY WEBSITE: <https://www.maine.gov/mema/maine-prepares/plans-trainings-exercises/serc/rulemaking>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Vanessa.Corson@maine.gov

AGENCY: **06-096 - Department of Environmental Protection**

CHAPTER NUMBER AND TITLE: **Ch, 167,** Tracking and Reporting Gross and Net Annual Greenhouse Gas Emissions

ADOPTED RULE NUMBER: **2024-022**

CONCISE SUMMARY: This update to Chapter 167 revises the methods for the calculation of gross and net annual greenhouse gas emissions in the State for the purpose of assessing attainment of the reduction requirements set out at 38 MRS §§576-A(1), (2) and (3).

EFFECTIVE DATE: February 6, 2024

AGENCY CONTACT PERSON: Stacy Knapp, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333. Telephone: (207) 287-2235. Email: Stacy.R.Knapp@maine.gov

AGENCY WEBSITE: <https://www.maine.gov/dep/>
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Mark.T.Margerum@maine.gov

AGENCY: **94-649 - Maine Commission on Indigent Legal Services**

CHAPTER NUMBER AND TITLE: **Ch. 301,** Fee Schedule and Administrative Procedures for Payment of Court or Commission Assigned Counsel

ADOPTED RULE NUMBER: **2024-023**

CONCISE SUMMARY: This proposed rule amendment would provide a graduated penalty structure for vouchers submitted after 90 days of the triggering date. The rule also updates the trigger amounts for presumptive review to be in line with the recent increase to the hourly rate paid to assigned counsel.

EFFECTIVE DATE: February 6, 2024

AGENCY CONTACT PERSON: Jim Billings, Executive Director, Maine Commission on Indigent Legal Services, 154 State House Station, Augusta, ME 04333. Telephone: 207-287-3254. Email: : Jim.Billings@Maine.gov

AGENCY WEBSITE: [www.maine.gov/mcils](http://www.maine.gov/mcils)
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Jim.Billings@Maine.gov

AGENCY: **06-096 - Department of Environmental Protection**

CHAPTER NUMBER AND TITLE: **Ch. 80,** Reduction of Toxics in Packaging

ADOPTED RULE NUMBER: **2024-024**

CONCISE SUMMARY: This rulemaking updates the existing Chapter 80 in accordance with changes in the law and updates language and formatting. The changes include the incorporation of an existing statutory sales prohibition on the use of phthalates in food packaging. This does not include the proposed section 5, establishing a sales prohibition on the use of specific applications of intentionally added PFAS to certain types of food packaging, which is a major substantive rulemaking and must be submitted to the legislature for review.

EFFECTIVE DATE: February 6, 2024

AGENCY CONTACT PERSON: Kerri Malinowski, DEP, 17 SHS, Augusta, ME 04333-0017. Telephone: (207) 215-1894. Email: Kerri.Malinowksi@Maine.Gov

AGENCY WEBSITE: <https://www.maine.gov/dep/>
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Mark.T.Margerum@maine.gov

AGENCY: **06-096 - Department of Environmental Protection**

CHAPTER NUMBER AND TITLE: **Ch. 305,** Natural Resources Protection Act – Permit by Rule, Section 16A Beach nourishment and dune restoration or construction activities in coastal sand dunes

ADOPTED RULE NUMBER: **2024-025** (emergency)

CONCISE SUMMARY: Public Law 2023, ch. 97 directed the Department to undertake rulemaking to amend Chapter 305 Natural Resources Protection Act (NRPA) - Permit By Rule to allow for the use of biodegradable stabilization materials in dune restoration projects. This law became effective October 25, 2023. Department staff have been working on a draft rule revision to implement the law that will be proposed to the Board for posting for standard rulemaking in the coming weeks. Due to the recent storm events, there is an immediate need to allow for expedited review of dune restoration and construction projects through permit by rule. This emergency rulemaking would put into place revisions to Chapter 305, Section 16A to allow coastal sand dune restoration using biodegradable stabilization materials to receive NRPA permits through permit by rule. All emergency rulemaking expires after 90 days, so this rule revision will be temporary.

EFFECTIVE DATE: February 2, 204

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AGENCY: **10-144 -** Department of Health and Human Services, **Division of Licensing and Certification**

CHAPTER NUMBER AND TITLE: **10-144 C.M.R. Ch. 123,** Behavioral Health Organizations Licensing Rule; **14-193 C.M.R. Ch. 6,** Licensing Mental Health Facilities (repeal); **14-193 C.M.R. Ch. 6A,** Licensing Mental Health Facilities: PNMI (repeal); **14-118 C.M.R. Ch. 5,** Regulations for Licensing and Certifying of Substance Abuse Treatment Programs (repeal)

ADOPTED RULE NUMBER: **2024-026 to 2024-029**

CONCISE SUMMARY: The Department has repealed three existing licensing rules and replaced them with one single rule. This change provides a comprehensive one-stop licensing rule for behavioral health programs. The rules repealed and replaced included community and residential licensing standards for mental health and substance use disorder treatment services, including Licensing of Mental Health Facilities, 14-193 CMR Ch.6; Licensing of Mental Health Facilities, PNMI, 14-193 CMR Ch. 6A; and Regulations for Licensing and Certifying of Substance Abuse Treatment Programs, 14-118 CMR Ch. 5.

This rule also updated and clarified language to reflect current practice in application and licensing requirements. Major updates to this rule serve to:

* Add, update, and remove outdated definitions;
* Add more clarity to the licensing application and renewal process;
* Include a licensing fee schedule for all license types;
* Modify licensing fees, remaining within allowed limits by statute;
* Update the Department’s role and responsibility for the enforcement and inspection of licensed organizations, including language that regulated behavioral health organizations must submit to regular and unannounced inspection surveys and complaint investigations to receive and maintain a license;
* Describe sanctions to address administrative violations;
* Update policy to address and minimize potential client barriers including communication needs, eligibility criteria, screening practices, and notices of denial and referral;
* Clarify and update requirements for client assessments, crisis plans, service plans and discharge plans to ensure a more client driven process;
* Update the requirements for the composition of the client’s service planning team;
* Add requirements for an organization to have a closure policy: when an organization plans to close a service, the Department must be promptly notified and clients need to be referred for appropriate services with minimal disruption;
* Add standards and qualifications necessary for the use of teleservices and distant site practitioners to improve client choice and access to medical and behavioral care;
* Add requirements for managing adverse events to maintain services in the event of an emergency;
* Include a risk management section, to reduce the use of restrictive behavioral interventions, grievances and accidents;
* Update and clarify the requirements for a clinical supervisor and clinical supervision;
* Add a section on the use of independent contractors;
* Update and clarify medication management requirements to improve the safety and security of medications, including PRN orders of psychotropic medications; diversion control of schedule II controlled substances; and medication storage, administration and record keeping;
* Update client record management policies required by an organization;
* Add clarity to the requirements of an organization’s quality improvement plan to ensure that services governed by this rule are accessible and effective;
* Update organization requirements for budgets and annual financial audits;
* Add requirements for organizations that manage client money, and add clarity to fees charged by the organization to clients served;
* Add requirements for building leases, safety and maintenance;
* Add requirements for assertive community treatment;
* Update requirements for crisis services;
* Add mobile substance use treatment services;
* Add a requirement that a substance use treatment program must maintain a waiting list;
* Add a requirement that a substance use treatment program must have 24-hour a day, phone availability to a physician, physician assistant or nurse;
* Require all organizations providing opioid treatment services to comply with 42 CFR §§ 8.11 through 8.12;
* For residential programs:
* clarify requirements for community involvement and add that when feasible, allow clients to attend religious activities of their choosing;
* include the requirement that clients may have visitors and access to private telephone calls at any time;
* add clarity to resident rights, including the right for a resident to access food and beverages 24-hours per day;
* add clarity to client rights on the use of restraints and aversive conditioning;
* include standards for a daily census and add standards for maintaining a record of client absences from a residential facility; and
* add requirements to enhance client nutrition.

The Department’s decision to streamline these existing rules into one is based on the Department’s expertise, similarities and redundancies of the existing licensing rules, and the structure of the current provider network.

EFFECTIVE DATE: February 11, 2024

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