**State of Maine: Notice of Agency Rulemaking – April 5, 2023**

**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: **02-333** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Licensure of Foresters**

CHAPTER NUMBERS AND TITLES:

**Ch. 70**, Qualifications for Forester License *(Amend)*

**Ch. 70-A**, Licensure by Endorsement *(New)*

**Ch. 100**, Code of Ethics *(Repeal and replace)*

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2023-P031, P032, P033** *(2nd publication)*

BRIEF SUMMARY: Rules are being readvertised because requests from more than 5 people were received for a public hearing.

**Ch. 70**: QUALIFICATIONS FOR FORESTER LICENSE

The principal reason for this proposed rulemaking is to align the rule with 32 MRS §5516 (2)(B) regarding the pathway for those applicants applying on the basis of a license in another jurisdiction.

**Ch. 70-A**: LICENSURE BY ENDORSEMENT

The principal reason for this proposed rulemaking is to propose a rule to implement a pathway for licensure by Endorsement pursuant to Public Law 2021 Ch. 167, *An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions*.

**Ch. 100**: CODE OF ETHICS

The Board is proposing to repeal and replace Ch. 100 with a chapter that clarifies terminology and definitions in numerous sections. Additionally, forester roles are described as well as when a written agreement is required and what the agreement must include.

*For a copy of the proposed rules and related documents, please direct your request to the contact person for this filing or visit:* [*https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters*](https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters)*, and scroll down to “What’s New.”*

PUBLIC HEARING: April 24, 2023 at the Marquardt Building, Room 118, 32 Blossom Lane, Augusta, Maine at 9:00 a.m. *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 public hearing at*[*https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters/home/board-meeting-information*](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fpfr%2Fprofessionallicensing%2Fprofessions%2Fboard-licensure-foresters%2Fhome%2Fboard-meeting-information&data=05%7C01%7CCatherine.Pendergast%40maine.gov%7C22ff2b5b9e3b4766445708db2f875ba7%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C638156030618041337%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=HZ9T8I04ZtA%2FPjfnF4E1akrPoJabCmeMsZB9%2BzUO8Os%3D&reserved=0)*.*

COMMENT DEADLINE: Tuesday, May 9, 2023 by 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Catherine E. Pendergast, PFR, 35 State House Station, Augusta, ME 04333-0035, 207-624-8518, TTY: Maine relay 711, [Catherine.Pendergast@Maine.gov](mailto:Catherine.Pendergast@Maine.gov)

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N.A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 5506, 5516; 10 MRS §8003-H.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-licensure-foresters>.

OPOR RULEMAKING LIAISON: [Kristin.Racine@Maine.gov](mailto:Kristin.Racine@Maine.gov).

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office for Family Independence (OFI)**

CHAPTER NUMBER AND TITLE: **Ch. 332**, MaineCare Eligibility Manual, **Rule #302**: **Chart 4.3**, Penalty Divisor Rule

PROPOSED RULE NUMBER: **2023-P074**

BRIEF SUMMARY: This proposed rule updates the average nursing care private rate, listed in Chart 4.3 of the *MaineCare Eligibility Manual*, to the most current figure available from the Department’s internal audit team. Effective June 1, 2023, the average nursing care private rate is determined from rates reported by nursing facilities on the MaineCare Cost Report. The rule also adds a description of how the rate is used to calculate penalty periods for disposing of assets for less than fair market value on or after the look-back period.

Asset transfer penalties will be determined based on current rates. This rulemaking will provide a benefit to applicants because as nursing care private rates increase over time, penalty periods will decrease.

See <http://www.maine.gov/dhhs/about/rulemaking> for rules and related rulemaking documents.

PUBLIC HEARING: No public hearing is scheduled.

COMMENT DEADLINE: Monday, May 8, 2023 at 5:00 p.m. EST. *Written public comments may be submitted via the link at* [*https://www.maine.gov/dhhs/about/rulemaking*](https://www.maine.gov/dhhs/about/rulemaking)*.*

CONTACT PERSON FOR THIS FILING: Lea Studholme, MaineCare Senior Program Manager, Department of Health and Human Services - Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-4106. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: [Lea.Studholme@Maine.gov](mailto:Lea.Studholme@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §42(1), §3173-J

DHHS RULEMAKING WEBSITE: <https://www.maine.gov/dhhs/about/rulemaking>.

DHHS WEBSITE: <https://www.maine.gov/dhhs/>.

DHHS RULE-MAKING LIAISON: [Sara.Gagne-Holmes@Maine.gov](mailto:Sara.Gagne-Holmes@Maine.gov).

**ADOPTIONS**

AGENCY: **02-477** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Occupational Therapy Practice**

CHAPTER NUMBERS AND TITLES:

**Ch. 4**, License Renewal and Continuing Education Requirements; Reinstatement *(New)*

**Ch. 6-A**, License Renewal; Reinstatement *(Repeal)*

ADOPTED RULE NUMBER: **2023-051, 052**

CONCISE SUMMARY: The rule was developed as a result of the change in the Board’s governing statute requiring continuing education requirements as a condition for renewal of a license. The new law directs the board to prescribe those requirements in rule. The rulemaking would incorporate the existing provisions in rule regarding license renewal and reinstatement that are currently in Ch. 6-A of board rules, and propose to repeal that chapter in its entirety and consolidate all provisions with the Continuing Education Requirements in a newly created Ch. 4. The rule proposes that each occupational therapist shall complete ten (10) hours and every occupational therapy assistant shall complete six (6) hours of continuing education relevant to the practice of occupational therapy or interprofessional practice during each reporting period as a condition of renewal. At least one (1) hour shall be on ethics. There is no requirement for either in-person attendance or a live, remote program during which immediate interaction with the instructor is possible. A minimum of four (4) hours must be completed by participation in a program offered by a recognized sponsor, while the remaining hours may be satisfied through a number of other qualifying activities including (but not limited to; please refer to text of the proposed rule) academic coursework, publications related to occupational therapy, preparation for and presenting at a workshop or seminar, and research.

EFFECTIVE DATE: April 3, 2023

AGENCY CONTACT PERSON: Candice Wright, Consumer Assistance and Hearing Coordinator, Office of Professional and Occupational Regulation - Department of Professional and Financial Regulation, 35 State House Station, Augusta, ME 04333-0035. Telephone: (207) 624-8601. Email: [Candice.B.Wright@Maine.gov](mailto:Candice.B.Wright@Maine.gov).

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-occupational-therapy-practice>.

OPOR RULEMAKING LIAISON: [Kristin.Racine@Maine.gov](mailto:Kristin.Racine@Maine.gov).