**State of Maine: Notice of Agency Rulemaking – April 8, 2020**

**PROPOSALS**

**ADOPTIONS**

AGENCY: **02-313 - Maine Board of Dental Practice** (*affiliated with the* Department of Professional and Financial Regulation - PFR)

CHAPTER NUMBERS AND TITLES:

**Ch. 1**, Definitions *(Repeal and replace)*

**Ch. 2**, Rules Relating to Dental Hygienists *(Repeal)*

**Ch. 2**, Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities *(New)*

**Ch. 3**, Rules Relating to Dental Assistants *(Repeal)*

**Ch. 3**, Qualifications for Expanded Function Dental Assistant Licensure *(New)*

**Ch. 4**, Rules Relating to the Practice of Denturism *(Repeal)*

**Ch. 4**, Qualifications for Dental Radiography Licensure *(New)*

**Ch. 5**, Requirements for Licensure as a Denturist *(Repeal)*

**Ch. 5**, Qualifications for Denturist Licensure *(New)*

**Ch. 6**, Rules for Radiation Barriers *(Repeal)*

**Ch. 6**, Qualifications for Dentist Licensure *(New)*

**Ch. 8**, Advertising *(Repeal)*

**Ch. 8**, Qualifications for Initial and Renewal Registrations *(New)*

**Ch. 9**, Complaints / Investigations / Unprofessional Conduct *(Repeal)*

**Ch. 9**, Unprofessional Conduct *(New)*

**Ch. 10**, Licensure Requirements for Dental Radiographers *(Repeal)*

**Ch. 10**, Sexual Misconduct *(New)*

**Ch. 11**, Requirements for Licensure as Dental Hygienists *(Repeal)*

**Ch. 11**, Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licensure and Authorities *(New)*

**Ch. 12**, Requirements for Dental Licensure *(Repeal)*

**Ch. 12**, Practice Requirements *(New)*

**Ch. 15**, Mortality or Significant Health Incidents in a Dental Office *(Repeal)*

**Ch. 16**, Rules for Independent Practice Dental Hygienists to Process Dental Radiographers *(Repeal)*

ADOPTED RULE NUMBERS: **2020-065** *thru* **087**

CONCISE SUMMARY:

**\*** Fully implements the provisions of the *Maine Dental Practice Act* which was repealed and replaced in 2016, and further amended in 2018 and 2019, in the following ways:

° Removes scope of practice provisions from rules

° Eliminates definitions identified in statute

° Repeals provisions were repealed in statute

° Clarifies the requirements for licensure, practice authorities, registrations, renewal and reinstatement requirements

° Identifies pathways for licensure by endorsement

° Identifies the process for dental hygienist to qualify, apply and obtain practice authorities in the following practice areas: administration of nitrous oxide analgesia, administration of local anesthesia, independent practice dental hygiene, public health hygiene and dental therapy.

**\*** Revises existing rules to reflect practice standards applicable to all licensees such as infection control, radiation protection, safety and sanitary requirements, emergency protocols, dental adverse occurrence reporting, inventory control for controlled substances, patient records and recordkeeping requirements, informed consent provisions, practice and sale notification requirements, use of certain materials, lasers and digital equipment, after hours patient care and placement of temporary restorations without and without the use of dental radiographs.

**\*** Adopts national principles of ethics and codes of professional conduct specific to the dentists, dental hygienists and denturists.

**\*** Eliminates regulations such as the advertising of personnel, limiting services of public health dental hygiene and prohibiting a denturist from inserting an immediate denture within 48 hours of extraction.

EFFECTIVE DATE: April 5, 2020

BOARD CONTACT PERSON / RULEMAKING LIAISON: Penny Vaillancourt, Executive Director, Maine Board of Dental Practice , 143 State House Station, Augusta, ME 04333-0143. Telephone: (207) 287-3333. Email: Penny.Vaillancourt@Maine.gov .

BOARD WEBSITE: https://www.maine.gov/dental/ .

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Maine Center for Disease Control and Prevention (Maine CDC)**

CHAPTER NUMBER AND TITLE: **Ch. 292**, Rules Relating to The Lead Poisoning Control Act

ADOPTED RULE NUMBER: **2020-088** *(Emergency)*

CONCISE SUMMARY: The Department is adopting this rule on an emergency basis to immediately implement revised federal standards for dust-lead hazards to identify and abate lead-based substances in dwellings and child-occupied facilities, decreasing the risk of exposure to environmental lead hazards and child lead poisoning. The extent of this rule change is limited to reducing dust-lead levels specified in the existing definition of "lead-contaminated dust," which, under the current rule, allows lead concentration levels to be equal to, or less than, 40 micrograms of lead per square foot (µg/ft2) on floors and 250 µg/ft2 on window sills. (10-144 CMR ch. 292). This change is necessary to apply U.S. Environmental Protection Agency (EPA) dust-lead hazard standards effective January 2020, and establish the lower standards of 10 µg/ft2 on floors and 100 µg/ft2 on window sills (40 CFR §745.65), to identify the presence of environmental lead hazards that must be removed in accordance with the Maine's *Lead Poisoning Control Act* (22 MRS ch. 252).

EFFECTIVE DATE: April 1, 2020

MAINE CDC CONTACT PERSON: Bridget Bagley, Maine CDC, 286 Water Street - 11 State House Station, Augusta, ME, 04333-0011. Telephone: (207) 287-9394 or 711. Fax: (207) 287-2887. Email: Bridget.Bagley@Maine.gov .

MAINE CDC WEBSITE: http://www.maine.gov/dhhs/mecdc/rules/ .

MAINE DHHS WEBSITE: http://www.maine.gov/dhhs/ .

MAINE CDC RULEMAKING LIAISON: Tera.Pare@Maine.gov .

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AGENCY: **02-392** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Pharmacy**

CHAPTER NUMBER AND TITLE: **Ch. 36**, Licensure of Opioid Treatment Programs

TYPE OF RULE: Routine Technical

ADOPTED RULE NUMBER: **2020-089** *(Emergency)*

BRIEF SUMMARY: The Maine Board of Pharmacy (“Board”) adopts these emergency rule changes in 02-392 CMR ch. 36, *Licensure of Opioid Treatment Programs* (“OTPs”) pursuant to 32 MRS §13751(2)(A) and (3) and the Board’s emergency rulemaking authority under 5 MRS §8054 and in response to the Governor’s *Proclamation of State of Civil Emergency to Further Protect Public Health* (dated March 15, 2020) and the Governor’s Executive Order 19 FY 19/20, *An Order Regarding Essential Businesses and Operations* (effective March 24, 2020).

This emergency rule will amend Sections 4(2) and (3) of ch. 36 to remove the requirement that that the PIC be “physically present” for the preparation of all take-home doses and allow other licensed pharmacists who are authorized by the PIC to be present instead. The need for this emergency change is the on-going COVID-19 public health emergency and governmental recommendations and orders for individuals to shelter at home to mitigate the spread of this disease. In response, on March 11, 2020, the Substance Abuse and Mental Health Services Administration (“SAMHSA”) of the United States Department of Health and Human Services issued guidance that would allow states to request that a greater number of patients at OTPs be permitted to receive take-home doses as opposed to receiving single doses administered at the OTP. Maine subsequently requested and obtained permission that expanded the pool of patients eligible for take-home doses. As a result, a significantly greater number of patients is requesting take-home doses, which is significantly increasing the amount of time that PICs must be physically present at their respective OTPs for the preparation of take-home doses. The ability of these PICs to be physically present for all these preparations appears to be unsustainable during the state of emergency. Allowing another licensed pharmacist to be physically present instead of the PIC will not compromise the ability of OTPs to safely prepare take-home doses. During any state of civil emergency declared by the Governor related to the COVID-19 virus, no pharmacist will be required to be physically present to prepare drugs for delivery, provided that such drugs are prepared by either an advanced practice registered nurse, a registered professional nurse, or a licensed practical nurse who is: 1) licensed by the State Board of Nursing; 2) licensed by the board as a pharmacy technician; and 3) explicitly designated by the pharmacist in charge to prepare drugs in the absence of a pharmacist.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Geraldine L. Betts, Administrator, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8625. Email: Geraldine.L.Betts@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §13751(2)(A) and (3); 5 MRS §8054

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

OPOR WEBSITE: www.maine.gov/professionallicensing .

BOARD WEBSITE: https://www.maine.gov/pfr/professionallicensing/professions/pharmacy/index.html .

OPOR RULEMAKING LIAISON: Anne.L.Head@Maine.gov .