**State of Maine: Notice of Agency Rulemaking – April 29, 2020**

**PROPOSALS**

AGENCY: **15-215** - Maine Department of Defense, Veterans and Emergency Management (DVEM), **Bureau of Maine Veterans Services (BMVS)**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Administration of the Veteran’s Homelessness Prevention Coordination Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P080**

SUMMARY: This proposed rule establishes the process to govern the administration of the Veterans Homeless Prevention Coordination Program pursuant to Title 37-B MRS §513-A, enacted by ch. 504 of the Public Laws of 2019, by the Maine Bureau of Veterans Services. The program will provide funding for transitional housing to homeless veterans and coordinate efforts to remedy and prevent homelessness among veterans in the state. The fixed program General Fund allocation set by the Legislature is currently $100,000 per fiscal year.

The proposed rule provides a reimbursement rate ($50 a night) that closely follows the per diem rate that the U.S. Veterans Administration establishes for its homeless veterans program, pursuant to 38 USC §2012. Reimbursement would be made for up to 30 continuous nights to a veteran who is a resident of Maine and who meets the definition of a veteran as outlined in these rules.

The rule establishes eligibility for reimbursement to a human service-based volunteer organization on a case-by-case basis as authorized in Title 37-B MRS §513-A. The proposed rule also outlines the procedure for establishing collaborative agreements and programs of partnerships with human services-based volunteer organizations and sets forth the requirements and eligibility criteria for providers, the reimbursement billing schedule, and procedures to remedy any misuse of the funds.

PUBLIC HEARING: None scheduled due to State of Emergency in effect.

COMMENT DEADLINE: June 1, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Kevin Rousseau, Maine Bureau of Veterans Services, Department of Defense, Veterans & Emergency Management, 117 State House Station, Augusta, Maine 04333. Telephone: (207) 430-6037. Fax: (207) 626-4471. TTY: (711) Maine Relay. Email: Kevin.Rousseau@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None.

STATUTORY AUTHORITY FOR THIS RULE: 37-B MRS §513-A

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

 DVEM RULEMAKING LIAISON: Scott.A.Young@Maine.gov .

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBERS AND TITLES:

**Ch. 156**, CO2 Budget Trading Program

**Ch. 158**, CO2 Budget Trading Program Auction Provisions

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2020-P081, P082**

BRIEF SUMMARY: This proposal updates the rules governing the Regional Greenhouse Gas Initiative to conform with the updated Model Rule published by RGGI, Inc. on December 19, 2017 and revised on December 14, 2018. The changes maintain Maine’s participation in the program through 2030 and beyond by defining Maine’s emissions cap and rate of cap reduction in alignment with the other participating states. The proposed amendments to ch. 156 and 158 include updates to the CO2 allowance allocation provisions, changes to definitions supporting the updates, and the deletion of the SF6 (sulfur hexafluoride) and energy efficiency offset categories.

The proposed CO2 allowance allocation amendments include:

\* CO2 budget trading program base budget (in tons) for 2021 through 2030.

\* The creation of an emissions containment reserve (ECR) allowing greater emissions reductions in the event that reductions prove less expensive than anticipated. States implementing the ECR will withhold allowances from an auction if the ECR trigger price is not met.

\* The CCR trigger price is established at $13 in 2021. Each year after 2021, the CCR trigger price is 1.07 multiplied by the CCR trigger price from the previous calendar year.

\* The number of CCR allowances available for each year from 2021 onward is established.

\* The CO2 budget trading program adjusted budget is established for 2021 through 2025 (formula).

PUBLIC HEARING: No public hearing is scheduled. There is a 30-day written comment period. A public hearing will be held if the Department receives 5 or more requests before the end of the comment period.

COMMENT DEADLINE: June 1, 2020 - 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Erle Townsend, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333. Telephone:(207) 287-6115. Email: Erle.Townsend@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 38 MRS §§ 580, 580-A, 580-B, 580-C, 585-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

DEP WEBSITE: https://www.maine.gov/dep/ .

DEP RULEMAKING LIAISON: Mark.T.Margerum@Maine.gov .

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 331**, Public Assistance Manual (TANF): **TANF Rule #114A** (Changes to Household and Budgeting)

ADOPTED RULE NUMBER: **2020-098**

CONCISE SUMMARY: This rule change aligns the *Maine Public Assistance Manual* with 22 MRS §3762(3)(B)(7) as amended by LD 1772 and LD 1774; §3762-18 as amended by LD 1772; §3769-G as amended by LD 1772; and §3762(20) as amended by LD 1001. These amendments require the Department to eliminate a gross income test for TANF/PaS applicants, utilize new earnings disregards when calculating a TANF/PaS benefit, accept referrals from educational institutions as PaS applications, provide up to two million dollars annually to organizations to support whole family economic security initiatives, and end TANF/PaS denials based on a positive drug test.

This rule changes relationship requirements for TANF eligibility. These changes align TANF policy with related state law and policy which recognizes the additional relationships included in this rule.

This rule provides the figures for the increased Standard of Need and Maximum benefit for Federal Fiscal Year 2021, as required by Maine Statute. In calculating these figures, corrections were also made to the figures for the current Federal Fiscal Year.

As a result of comments, this rule incorporates the conditions under which Good Cause can be granted and the process for seeking Good Cause as is applies to ASPIRE-TANF, as detailed in HP 908 – LD 1247.

As a result of comments requirements for face to face interactions between applicants, recipients and Department representatives were modified.

The Department also incorporated, into this rule, a number of formatting and grammatical changes. The Department made some adjustments to word choice with the intent of using terms more consistently from chapter to chapter and replaced words that may have taken on a different connotation since previous drafts. These changes increase the readability of the amended chapters.

This rule will not have an impact on municipalities or small businesses.

See http://www.maine.gov/dhhs/ofi/rules/index.shtml for rules and related rulemaking documents.

EFFECTIVE DATE: April 29, 2020

OFI CONTACT PERSON: Alexandria Lauritzen, TANF Program Manager, Office for Family Independence, Department of Health and Human Services, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-4109. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Alexandria.Lauritzen@Maine.gov .

OFI WEBSITE: http://www.maine.gov/dhhs/ofi/

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

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov .

DHHS RULEMAKING LIAISON: Kevin.Wells@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 124** *(New)*, Emergency Medical Services Personnel Reporting Rule

ADOPTED RULE NUMBER: **2020-099** *(Emergency, major substantive)*

CONCISE SUMMARY: The Department is authorized to implement rules to require entities to report information related to healthcare workforce capacity and public health emergency preparedness. (22 MRS ch. 250.) Pursuant to 5 MRS §8054, the provisional adoption of this emergency rule immediately implements requirements for emergency medical service (EMS) organizations and emergency medical dispatch (EMD) centers to report information specific to emergency medical service workforce capacity as a key element of an effective comprehensive emergency medical services system. Information collected under this rule is specific to EMS personnel who, in accordance with Department-issued guidance, are temporarily removed from service due to reasons related to exposure, or potential exposure, to a notifiable condition or disease. EMS personnel includes, but is not limited to, licensed EMS responders, emergency medical transportation services and dispatch. Reporting must be in the form prescribed by the Department. Electronic reports must be completed within 24 hours of the removal of the EMS personnel and the individual must be monitored for changes in status that must be reported within 24 hours of the change (i.e. date completed self-quarantine, hospitalization, returned to work, etc.). Information collected will be used for public health purposes and inform system capacity in the event of a potential or actual public health emergency.

AGENCY CONTACT PERSON: Bridget Bagley, Maine CDC, 286 Water Street – 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 287-9394. Email: Bridget.Bagley@Maine.gov .

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

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

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

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

DHHS RULEMAKING LIAISON: Kevin.Wells@Maine.gov .

AGENCY: **02-039**- Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Real Estate Commission**

CHAPTER NUMBER AND TITLE: **Ch. 360**, Prerequisites to Licensure by Individuals

ADOPTED RULE NUMBER: **2020-100** *(Emergency)*

CONCISE SUMMARY: The amendment will extend the time in which a sales agent license applicant can qualify for licensure. Under current REC rules at ch. 360 Section 4(3), REC requires that as a prerequisite to examination, an applicant for a sales agent license must, within one year of completion of the course, submit a course transcript confirming that the applicant has successfully completed a qualifying education program which covers the minimum competencies defined in the REC-approved model entitled “The Sales Agent Course.” REC examinations are administered by Pearson Vue. Due to the COVID-19 emergency, Pearson Vue testing sites were closed on March 16, 2020. In order to accommodate the time constraint placed on candidates due to site closures, the time to qualify for the sales agent examination is extended until 180 days after the testing sites fully reopen.

These are routine technical rules as defined in the *Maine Revised Statutes*, Title 5, ch. 375 sub-ch. 2-A.

EFFECTIVE DATE: April 22, 2020

COMMISSION CONTACT PERSON: Karen L. Bivins, Director, Real Estate Commission, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8524. Email: Karen.L.Bivins@Maine.gov .

COMMISSION WEBSITE: http://www.maine.gov/pfr/professionallicensing/professions/real\_estate/index.html ,

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

AGENCY: **05-071 – Department of Education (DOE)**

CHAPTER NUMBER AND TITLE: **Ch. 115**, The Credentialing of Education Personnel, **Part II**: Requirements for Specific Certificates and Endorsements

ADOPTED RULE NUMBER: **2020-101** *(Final adoption, major substantive)*

CONCISE SUMMARY: The State Board is reinstating of ch. 115 part II, “Requirements for Specific Certificates and Endorsements”, which was in effect May 14, 2014. This rule, following the emergency adoption of this same version of ch. 115, will be in effect until such time as the State Board has developed new ch. 115 rules.

EFFECTIVE DATE: May 23, 2020

DOE CONTACT PERSON / RULEMAKING LIAISON: Jaci Holmes, 23 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6669. Email: Jaci.Holmes@Maine.gov .

DOE WEBSITE: https://www.maine.gov/doe/home .

AGENCY: **05-071 – Department of Education (DOE)**

CHAPTER NUMBER AND TITLE: **Ch. 125**, Basic School Approval Standards: Public Schools and School Administrative Units

ADOPTED RULE NUMBER: **2020-102** *(Final adoption, major substantive)*

CONCISE SUMMARY: The last repeal and replace of State Board of Education/Maine Department of Education rule ch. 125 was in 2002. The resulting language was highly duplicative of statute. The attached replacement eliminates duplication when possible, and includes minimum requirements where provided in law.

To this end, the rule sets out school approval standards and requirements in a linear fashion, addressing requirements in the order they appear in statute when possible, and providing detail where necessary. For clarity, a chart referenced in Section 4 of the adopted rule resides on the Department web page and contains a comprehensive list of requirements and citations.

Specific revisions to the Rule are as follows:

\* Based on a cross-walk conducted by the Department, language which is duplicative of statute or is outdated has been updated or eliminated;

\* The definition of school has been revised;

\* Unnecessary definitions have been eliminated;

\* Certain requirement exceptions for SAUs that tuition all or whole populations of students out of the resident unit have been added;

\* Certain requirement exceptions for Career and Technical Regions have been added;

\* The Comprehensive Education Plan format determination remains with the SAU, but must equally include and reflect all schools within the unit;

\* The minimum requirements as required by M.R.S. 20-A Section 4502(5) are listed in Section 5:

º 5.01 – Grade K now has a minimum instructional day of 3 hours;

º 5.03 – added “Areas used for the provision of student services and health services shall be adequate to provide for the privacy and confidentiality of such services;”

º 5.08 – revised language regarding school counseling program;

º 5.12 – revised language regarding time out areas to reference Restraint and Seclusion;

º 5.15 – added family outreach requirement, per statute;

º 5.16 – added language around Promotion, Retention, Acceleration and Graduation of Students;

º 5.18 – added requirement for Multi-tiered System of Support, per LD 651; and

\* Section 7.01 outlining the initial approval process for SAUs was revised to reflect current practice.

EFFECTIVE DATE: May 23, 2020

DOE CONTACT PERSON / RULEMAKING LIAISON: Jaci Holmes, 23 State House Station, Augusta, Maine 04333. Telephone: (207) 624-6669. Email: Jaci.Holmes@Maine.gov .

DOE WEBSITE: https://www.maine.gov/doe/home .

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 290**, Standards for Billing, Credit and Collection, and Customer Information for Eligible Telecommunications Carriers Providing Basic Telephone Service

ADOPTED RULE NUMBER: **2020-103**

CONCISE SUMMARY: The Public Utilities Commission adopts amendments to ch. 290 of the Commission’s rules to implement recently enacted legislation, Public Law 2019 ch. 26.

EFFECTIVE DATE: April 28, 2020

MPUC CONTACT PERSON / RULEMAKING LIAISON: Jamie A. Waterbury, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1360. Email: Jamie.A.Waterbury@Maine.gov .

MPUC WEBSITE: http://www.maine.gov/mpuc/ .

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 660**, Consumer Protection Standards for Water Utilities

ADOPTED RULE NUMBER: **2020-104**

CONCISE SUMMARY: The Public Utilities Commission adopts amendments to ch. 660 of the Commission’s rules to implement recently enacted legislation, Public Law 2019 ch. 26.

EFFECTIVE DATE: April 28, 2020

MPUC CONTACT PERSON / RULEMAKING LIAISON: Jamie A. Waterbury, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1360. Email: Jamie.A.Waterbury@Maine.gov .

MPUC WEBSITE: http://www.maine.gov/mpuc/ .

AGENCY: **02-380 - Maine State Board of Nursing** *(affiliated with the* Department of Professional and Financial Regulation – PFR*)*

CHAPTER NUMBER AND TITLE: **Ch. 5**, Regulations Relating to Training Programs and Delegation by Registered Professional Nurses of Selected Nursing Tasks to Certified Nursing Assistants

ADOPTED RULE NUMBER: **2020-105** *(Emergency)*

CONCISE SUMMARY: The Board has concluded an emergency exists requiring the adoption of these emergency rule changes. Registered professional nurses must be able to delegate to qualified unlicensed nursing assistant students who are working towards certifications and listing on the Maine Registry of Certified Nursing Assistants. Certified nursing assistants work in essential businesses and sufficient numbers of qualified nursing assistants are necessary to ensure quality of health care to patients.

EFFECTIVE DATE: April 24, 2020

BOARD CONTACT PERSON / RULEMAKING LIAISON: Virginia deLorimier, Maine State Board of Nursing, 158 State House Station, Augusta, ME 04333-0158. Telephone: (207) 287-1133. Email: Virginia.E.deLorimier@Maine.gov .

BOARD WEBSITE: http://www.maine.gov/boardofnursing/ .

AGENCY: **02-380 - Maine State Board of Nursing** *(affiliated with the* Department of Professional and Financial Regulation – PFR*)*

CHAPTER NUMBER AND TITLE: **Ch. 10**, Regulations Relating to Administration of Intravenous Therapy by Licensed Practical Nurses and Registered Professional Nurses

ADOPTED RULE NUMBER: **2020-106** *(Emergency)*

CONCISE SUMMARY: The emergency changes will allow licensed practical nurses to practice intravenous therapy administration in locations where a registered nurse is not on-site but is immediately available via telephone or videoconferencing technology to assess and evaluate nurse performance.

EFFECTIVE DATE: April 24, 2020

BOARD CONTACT PERSON / RULEMAKING LIAISON: Virginia deLorimier, Maine State Board of Nursing, 158 State House Station, Augusta, ME 04333-0158. Telephone: (207) 287-1133. Email: Virginia.E.deLorimier@Maine.gov .

BOARD WEBSITE: http://www.maine.gov/boardofnursing/ .

AGENCIES:

*Affiliated with the* Department of Professional and Financial Regulation – PFR:

**02-373 - Board of Licensure in Medicine**

**02-380 - State Board of Nursing**

**02-383 - Board of Osteopathic Licensure**

CHAPTER NUMBER AND TITLE: **Ch. 12**, Joint Rule Regarding Office Based Treatment of Opioid Use Disorder

ADOPTED RULE NUMBERS: **2020-107, 108, 109**

CONCISE SUMMARY In this rulemaking, the Board of Licensure in Medicine, State Board of Nursing, and Board of Osteopathic Licensure adopted a joint rule to ensure safe and adequate treatment of opioid use disorder with approved medications in an outpatient medical setting that is not a certified Opioid Treatment Program.

EFFECTIVE DATE: April 29, 2020

BOARD CONTACT PERSONS AND WEBSITES:

**Board of Licensure in Medicine**: Dennis E. Smith, Executive Director, 137 State House Station, Augusta, ME 04333-0137. Telephone: (207) 287-3605. Email: Dennis.E.Smith@Maine.gov . Website: http://www.maine.gov/md/ .

**State Board of Nursing**: Kimberly Esquibel, Executive Director, 158 State House Station, Augusta, ME 04333-0158. Telephone: (207) 287-1148. Email: Kim.Esquibel@Maine.gov . Website: http://www.maine.gov/boardofnursing/ .

**Board of Osteopathic Licensure**: Susan E. Strout, Executive Secretary. 142 State House Station, Augusta, ME 04333-0142. Telephone: (207) 287-2480. Email: Susan.E.Strout@Maine.gov . Website: http://www.maine.gov/osteo/ .