**State of Maine: Notice of Agency Rulemaking – June 9, 2021**

**PROPOSALS**

AGENCY: **19-100 - Department of Economic and Community Development (DECD)**

CHAPTER NUMBER AND TITLE: **Ch. 100**, Pine Tree Development Zone Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P104**

BRIEF SUMMARY: The proposed rule change has four primary components:

**1.** Excludes remote employees working outside of a Pine Tree Development Zone (PTDZ) from the definition of qualified employee, excepting temporary remote work due to emergencies.

**2.** Specifies that a PTDZ business that falls below its employment baseline must notify DECD within 30 days of the lapse and has a total of 60 days to regain its baseline, after which they must submit a request for additional time to regain its new hire or the business will lose its PTDZ certification.

**3.** PTDZ businesses who fall below their employment baselines due to the effects of emergencies will automatically be granted an extension to regain their required baseline level.

**4.** Updates annual reporting due dates to comply with the authorizing PTDZ statute as amended.

PUBLIC HEARING: None

COMMENT DEADLINE: July 9, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Phoenix McLaughlin, DECD, 59 State House Station, Augusta, ME 04333. Telephone: (207) 624-9813. Email: Phoenix.McLaughlin@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: Title 30-A §5250-M

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

DECD WEBSITE: [www.maine.gov/decd](http://www.maine.gov/decd) .

DECD RULEMAKING LIAISON: Douglas.Ray@Maine.gov .

AGENCY: **19-100 - Department of Economic and Community Development (DECD)**

CHAPTER NUMBER AND TITLE: **Ch.400**, Employment Tax Increment Financing

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P105**

BRIEF SUMMARY: The proposed rule change has two primary components:

**1.** Specifies that the ETIF reimbursement rate for employees who work remotely will be defined by their physical work location, as opposed to the company’s office location, excepting employees who only work remotely temporarily within the State of Maine due to the effect of an emergency.

**2.** Updates annual reporting due dates to comply with the authorizing ETIF statute as amended.

PUBLIC HEARING: None

COMMENT DEADLINE: July 9, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Phoenix McLaughlin, DECD, 59 State House Station, Augusta, ME 04333. Telephone: (207) 624-9813. Email: Phoenix.McLaughlin@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: Title 36 §6759

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

DECD WEBSITE: [www.maine.gov/decd](http://www.maine.gov/decd) .

DECD RULEMAKING LIAISON: Douglas.Ray@Maine.gov .

AGENCY: **02-380 – Maine State Board of Nursing**

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

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P106**

CONCISE SUMMARY: The amendment reduces the number of hours of the Certified Nursing Assistant (CNA) Curriculum to coincide with the changes in the CNA curriculum, provides for more flexibility with additional CNA training, quantifies the meaning of ability to read and write English, and clarifies what recently graduated means in the section for certified nursing assistants from out of state.

PUBLIC HEARING: N/A

DEADLINE FOR COMMENTS: July 8, 2021

BOARD CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Virginia deLorimier, Maine State Board of Nursing, 158 State House Station, Augusta, ME 04333-0158. Telephone: (207) 287-1147. Email: Virginia.E.deLorimier@Maine.gov .

THIS RULE WILL NOT HAVE A FISCAL IMPACT ON MUNICIPALITIES.

STATUTORY AUTHORITY: 32 MRS §2153-A(1)

BOARD WEBSITE: <https://www.maine.gov/boardofnursing/> .

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 283**, Newborn Bloodspot Screening Rule

TYPE OF RULE: Hybrid Rule *(both Routine technical and Major substantive)*

ADOPTED RULE NUMBER: **2021-118**

CONCISE SUMMARY: On March 11, 2021 the Department adopted and filed with the Secretary of State’s office an emergency Routine Technical/Major Substantive ch. 283 (*Newborn Bloodspot Screening Rule*) rule. The emergency major substantive rule changes will be in effect for up to 12 months or until the Legislature has completed its review, as provided by 5 MRS §8072.

In this rulemaking, the Department permanently adopts the emergency routine technical rule changes, as shown below, which add four conditions for newborn screening. In addition, the Department provisionally adopts the emergency major substantive rule changes that increase the filter paper fee to $220. The Department will proceed to submit the provisionally adopted major substantive rule changes to the Legislature for its review and approval.

**Routine Technical Adopted Rule Changes:**

The Department expanded the conditions on Maine’s newborn bloodspot screening panel to include the following conditions to APPENDIX A, Core Conditions, in this rule. These conditions were added on March 11, 2021 by emergency rule for 90 days, pursuant to 5 MRS §8072:

**\*** Mucopolysaccharidosis Type 1 (MPS-1)

**\*** Pompe

**\*** Spinal Muscular Atrophy (SMA)

**\*** X-linked Adrenoleukpdysrophy (X-ALD)

Early detection and timely diagnosis of certain congenital genetic disorders impact health outcomes for newborns, reducing the mortality and morbidity from certain heritable disorders. Beginning July 1, 2001, Maine began mandatory newborn testing to include nine disorders and, because of the importance of screening, early detection and treatment, and coordination of services for long-term care, the Maine CDC NBSP, with the support of Maine’s Joint Advisory Committee for Maine Newborn Screening (JAC), has since continued to expand the panel of disorders and revise requirements for screenings for certain conditions to be consistent with the U.S. DHHS Recommended Universal Screening Panel (RUSP). Disorders on the RUSP are chosen based on evidence that supports the potential net benefit of screening, the ability to screen for the disorder, and the availability of effective treatments.

These four conditions were added to the RUSP in the following years:

**\*** Pompe (2013)

**\*** MPS-1 (2015)

**\*** X-ALD (2015)

**\*** SMA (2018)

The Maine Joint Advisory Committee for Newborn Bloodspot Screening recommended that the Department add Pompe, MPS-1 and X-ALD to the Core Conditions for screening, in October 2018, and in May 2019, the Committee recommended adding SMA.

The Department adopted the four additional conditions to this rule to reduce mortality and morbidity from certain heritable conditions.

**Major Substantive Rule Changes Provisionally Adopted:**

**Increasing the filter paper fee:**

This fee increase is necessary to off-set anticipated costs corresponding to the added conditions (i.e., genetic clinic contracts, resource material, follow-up services and other related program operations). The emergency adoption of the major substantive rule changes became effective on March 11, 2021. 5 MRS §8002(3-A).

EFFECTIVE DATE for ROUTINE TECHNICAL RULE: June 1, 2021

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

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

MAINE CDC WEBSITE: <https://www.maine.gov/dhhs/mecdc/> .

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

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 113**, Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control

ADOPTED RULE NUMBER: **2021-119**

CONCISE SUMMARY: This is a new, separate rule, that constitutes the 10th Part of 10‑144 CMR ch. 113 (*Regulations Governing the Licensing and Functioning of Assisted Housing Programs*). This Infection Prevention and Control Rule Part is applicable to, and governs, the other nine Parts of the ch. 113 rule: Assisted Living Programs, Level I Residential Care Facilities; Level II Residential Care Facilities; Level III Residential Care Facilities; Level IV Residential Care Facilities; Level I Private Non-Medical Institutions; Level II Private Non-Medical Institutions; Level III Private Non-Medical Institutions and Level IV Private Non-Medical Institutions. Pursuant to 22 MRS §7853, this rule is a major substantive rule.

This new rule institutes measures to improve and clarify infection surveillance, control, mitigation, and crisis staffing planning in Maine’s assisted housing facilities, including assisted living, residential care facilities, and private non-medical institutions.

The provisions related to Infection Prevention and Control apply to all types of Assisted Housing Programs subject to licensure under 22 MRS §7801. These provisions are consistent with State and Federal Center for Disease Control guidance, in response to the increased spread of the 2019 Novel Coronavirus (COVID-19) and will help to mitigate any future outbreaks of novel contagious illnesses. These provisions on infection prevention and control measures necessary for these settings were drafted in consultation with infection control experts from the Maine Center for Disease Control and the Office of Aging and Disability Services.

The Department adopted similar provisions in the recent revision of 10-144 CMR ch. 110, *Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities*, effective August 1, 2020. This rulemaking addresses the likelihood of potential similar incidence of COVID-19 in in Maine’s assisted housing facilities, including assisted living and residential care facilities and private non-medical institutions, and the mortal impact of transmission.

In compliance with 22 MRS §7853(1), the Department developed this rule in consultation with the Long-Term Care Ombudsman Program (LTCOP). On June 25, 2020, the Department submitted draft rules to Brenda Gallant, Executive Director of the LTCOP, for her review and input. Department staff and LTCOP Executive Director Gallant and staff discussed the rulemaking on or about June 26, 2020, at which time Executive Director Gallant expressed no concerns regarding the draft rule.

The Department, through OADS, requested federal Covid Relief Funding (CRF) under the *Coronavirus Aid, Relief, and Economic Security Act* to hire an infection control consultant, who worked with facilities to help them develop an Infection Control and Prevention plan, which is required by this rule. The Department received approval for the CRF at the end of September 2020. The facilities’ plan development/infection control consultation costs were defrayed though the CRF. The rule provides a requirement for PPE and supplies, but these measures should have been in place in the facilities in response to the COVID-19 pandemic.

Because this is a major substantive rule, the APA required a public hearing be held. 5 MRS §8052(1). Due to the Covid public health emergency, the public hearing was held virtually via ZOOM on Thursday, November 12, 2020.

Pursuant to 5 MRS §8072, the provisionally adopted rule was submitted to the Maine Legislature for its review. HP 421, LD 578, “Resolve, Regarding Legislative Review of Portions of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control, a Major Substantive Rule of the Department of Health and Human Services, Division of Licensing and Certification” finally passed on April 28, 2021 and was signed into law on May 5, 2021 as Resolves 2021 ch. 13, (emergency, effective May 5, 2021).

The legislative review resulted in no changes to the provisionally adopted rule. One amendment was added to LD 578. The amendment allows the Ch. 113 rules to go into effect immediately upon filing with the Secretary of State instead of 30 days after filing.

EFFECTIVE DATE: June 4, 2021

DLC CONTACT PERSON: Jonathan Leach, Division of Licensing and Certification, 41 Anthony Avenue – 11 State House Station, Augusta, ME 04333. Telephone: (207) 287-5825. Email: Jonathan.H.Leach@Maine.gov .

AGENCY RULES WEBSITE: <https://www.maine.gov/dhhs/dlc/about-us/rules-regulations/rulemaking> .

DLC WEBSITE: <https://www.maine.gov/dhhs/dlc> .

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

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

AGENCY: **16-633** - Department of Public Safety (DPS), **Gambling Control Board**

CHAPTER NUMBER AND TITLE: **Ch. 29**, Promotional Credits and Other Player Incentives

ADOPTED RULE NUMBER: **2021-120**

CONCISE SUMMARY The rule package changes controls for match play to permit patron’s gaming chips used for match play must be equivalent to or greater than the value to the promotional item.

EFFECTIVE DATE: June 9, 2021

BOARD CONTACT PERSON / RULEMAKING LIAISON: Milton Champion, Gambling Control Board, 45 Commerce Blvd. – 87 State House Station, Augusta Maine 04333. Telephone: (207) 626-3901. Email: Milton.F.Champion@Maine.gov .

WEBSITE: <https://www.maine.gov/dps/gamb-control/index.html> .

AGENCY: **14-197** - Department of Health and Human Services (DHHS), **Office of Aging and Disability Services (OADS)**

CHAPTER NUMBER AND TITLE: Office of Aging and Disability Services Policy Manual,

**Ch. 6** *(New)*: Crisis Prevention and Intervention Services

ADOPTED RULE NUMBER: **2021-121** *(Final adoption, major substantive)*

CONCISE SUMMARY: This rule outlines the Department’s crisis services for persons with intellectual disabilities or Autism Spectrum Disorder authorized by 34-B MRS §5206. The rule also describes crisis services available to persons with acquired brain injuries pursuant to 22 MRS §3088. The Department’s crisis services support and promote the safety and well-being of adults with intellectual disabilities, acquired brain injuries, or Autism Spectrum Disorder who are in crisis, when such personal crises could lead to the loss of their home, program, or employment.

EFFECTIVE DATE: July 1, 2021

OADS CONTACT PERSON: Hilary Gove, Policy Writer, Office of Aging and Disability Services, 41 Anthony Avenue – 11 State House Station, Augusta, ME 04333. Telephone: (207) 446-8305. Email: Hilary.Gove@Maine.gov .

OADS WEBSITE: <https://www.maine.gov/dhhs/oads> .

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

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

AGENCY: **16-633** - Department of Public Safety (DPS), **Gambling Control Board**

CHAPTER NUMBER AND TITLE: **Ch. 20**, Slot Machine and Electronic Table Game Standards, and Appendix B

# ADOPTED RULE NUMBER: 2021-122

# CONCISE SUMMARY: The rule package updates Ch. 20, *Slot Machine Standards*, and Appendix B, with a new version of GLI-11 and three new standards, GLI-18, 24 & 25.

EFFECTIVE DATE: June 9, 2021

BOARD CONTACT PERSON / RULEMAKING LIAISON: Milton Champion, Gambling Control Board, 45 Commerce Blvd. – 87 State House Station, Augusta Maine 04333. Telephone: (207) 626-3901. Email: Milton.F.Champion@Maine.gov .

WEBSITE: <https://www.maine.gov/dps/gamb-control/index.html> .

AGENCY: **02-032** - Department of Professional and Financial Regulation, **Office of Securities**

CHAPTER NUMBER AND TITLE: **Ch. 510**, Broker-Dealers, Investment Advisers, and Others Using the Internet for General Dissemination of Information About Securities Products and Services

ADOPTED RULE NUMBER: **2021-123**

CONCISE SUMMARY: Ch. 510 is amended to update definitions and to correct a textual error. The text of the amended rule can be found at the Office’s website: [www.investors.maine.gov](http://www.investors.maine.gov) .

EFFECTIVE DATE: June 13, 2021

SECURITIES CONTACT PERSON: Judith M. Shaw, Administrator, Office of Securities, 121 State House Station, Augusta, ME 04333-0121. Telephone: (207) 624-8551. Email: Judith.M.Shas@Maine.gov .

SECURITIES WEBSITE: <https://www.maine.gov/pfr/securities/index.shtml> .

SECURITIES RULEMAKING LIAISON: Karla.Black@Maine.gov .