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

**PROPOSALS**

AGENCY: **02-031** – Department of Professional and Financial Regulation, **Bureau of Insurance**

CHAPTER NUMBER AND TITLE: **Ch. 210**, Standards for Pharmacy Benefit Managers

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P141**

BRIEF SUMMARY: The purpose of the proposed rule is to implement LD 1504, "An Act To Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management," enacted as PL 2019 ch. 469. This legislation specifically authorizes routine technical rules concerning network adequacy and fiduciary duties that a prescription benefit manager owes to carriers that it contracts with.

PUBLIC HEARING: 1:30 p.m., August 20, 2020, from the Department of Professional and Financial Regulation, Bureau of Insurance, 76 Northern Avenue, Gardiner, ME 04345. *Instructions for attending the hearing remotely will be posted on the Bureau's website before the hearing.*

COMMENT DEADLINE: 4:30 p.m., August 31, 2020, by mail or email to the Contact Person.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Susan Tardiff, 34 State House Station, Augusta, ME 04333- 0034. Telephone: (207) 624-8415. Email: [Susan.P.Tardiff@Maine.gov](mailto:Susan.P.Tardiff@Maine.gov) .

IMPACT ON MUNICIPALITIES OR COUNTIES: None.

STATUTORY AUTHORITY FOR THIS RULE: 24-A MRS §§ 212 and 2927.

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

BUREAU WEBSITE: <https://www.maine.gov/pfr/insurance/> .

BUREAU RULEMAKING LIAISON: [Benjamin.Yardley@Maine.gov](mailto:Benjamin.Yardley@Maine.gov) .

AGENCY: **03-201 - Maine Department of Corrections (DOC)**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Policy and Procedures Manual – Adult: **Subsection 24.3**, Religious Services

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P142**

**BRIEF SUMMARY**: The primary reason this rule is being proposed is to repeal and replace the current rule, which was adopted in 2009, and has not been updated since. The replacement will create a rule governing many aspects of religious services for adult facility prisoners.

**DETAILED SUMMARY**: The primary reason this rule is being proposed is to repeal and replace the current rule, which was adopted in 2009, and has not been updated since. The proposed rule will create a rule governing many aspects of religious services for adult facility prisoners. It explains, while not requiring a prisoner to designate a religious preference, how a prisoner may designate a religious preference or change a religious preference. The proposed rule, among other things, provides procedures for a prisoner to practice his or her religion either individually or in a group setting; outlines the responsibilities of a facility chaplain; addresses the scheduling of religious activities; includes a process for a prisoner to request a religious accommodation; makes provisions for approved volunteers to provide religious services; establishes a Faith Review Committee; addresses religious dietary requirements; describes how a prisoner may acquire approved religious property; allows the Commissioner to establish advisory groups; and lists unauthorized activities.

**Copies of the proposed rule** are available upon request by contacting the Department contact person or on the Department of Corrections website at <https://www.maine.gov/corrections/PublicInterest/policies.shtml/>. Pursuant to Maine law, interested parties are publicly notified of the proposed rulemaking and are provided an opportunity for comment. Written comments may be submitted by mail, email or fax to the contact person before the end of the comment period. To ensure the comments are considered, they must include your name and the organization you represent, if any.

PUBLIC HEARING: August 19, 2020 at 1:00 p.m. via a Zoom virtual meeting. *Directions on how to attend the hearing will be posted on the Department of Corrections website and sent to the interested persons list.*

COMMENT DEADLINE: August 31, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / DOC RULEMAKING LIAISON: Mary Lucia, Department of Corrections, 111 State House Station, Augusta ME 04333. Telephone: (207) 287-4681. Fax: (207) 287-4370. Email: [Mary.A.Lucia@Maine.gov](mailto:Mary.A.Lucia@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: Title 34-A §§ 1402, 1403, 3032

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

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

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office of MaineCare Services (OMS) - Division of Policy**

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM): **Ch. II Section 103**, Rural Health Clinic Services

PROPOSED RULE NUMBER: **2020-P143**

CONCISE SUMMARY: This rule is proposed to comply with PL 2019 ch. 530, *An Act to Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health*. Part C sec. C-4, of the Act requires the Department to amend the rural health clinic services reimbursement methodology to provide rural health clinics with an alternative payment methodology option. Each rural health clinic must be given the option to be reimbursed under the existing prospective payment system methodology, or as of January 1, 2020, the alternative payment methodology of being reimbursed on the basis of 100% of the average of the reasonable costs of providing MaineCare-covered services during calendar years 2016 and 2017, as long as reimbursement is no less than reimbursement received under the current prospective payment system.

The current reimbursement method is based on 100% of the average of the reasonable costs of providing MaineCare-covered services during calendar years 1999 and 2000, with historical Medicare Economic Index (MEI) adjustments.

The resulting average, under both methods, is adjusted to account for any increase or decrease in the approved scope of services furnished during the provider’s fiscal year 2001 or 2018, respectively, calculating the amount of payment on a per visit basis.

The Department shall submit to CMS and anticipates approval for a State Plan Amendment related to these provisions effective retroactive to January 1, 2020.

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

PUBLIC HEARING: For this rulemaking, a public hearing will not be held due to the COVID-19 public health emergency. *The Department will accept email and standard mail comments for 30 days from the publication date of the notice of rulemaking by the Secretary of State.*

DEADLINE FOR COMMENTS: Comments must be received by 11:59 p.m. August 28, 2020.

OMS CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION: Anne E. Labonte, Comprehensive Health Planner II, Office of MaineCare Services , 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4082. Fax: (207) 287-6106. TTY: 711 (Deaf or Hard of Hearing). Email: [Anne.Labonte@Maine.gov](mailto:Anne.Labonte@Maine.gov) .

IMPACT ON MUNICIPALITIES OR COUNTIES: The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

STATUTORY AUTHORITY: 22 MRS §§ 42, 3173, PL 2019 ch. 530

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

OMS WEBSITE: <https://www.maine.gov/dhhs/oms/> .

OMS RULEMAKING LIAISON: [Thomas.Leet@Maine.gov](mailto:Thomas.Leet@Maine.gov) .

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

DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov) .

AGENCY: **99-346 - Maine State Housing Authority (MaineHousing)**

CHAPTER NUMBER AND TITLE: **Ch. 35** *(New)*, State Low Income Housing Tax Credit Rule

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P144**

BRIEF SUMMARY: The state low income housing tax credit law was recently enacted to provide funds for the development and preservation of multi-family affordable housing. Under the law, at least 80% of the credit to be allocated in a calendar year must be set aside for the construction or adaptive reuse of buildings for new rental units. The amount of the state low income housing tax credit a project receives for such new rental units is equal to the amount of federal low income housing tax credits the project receives in conjunction with the issuance of tax exempt bonds. Over time, MaineHousing must seek to allocate 30% of the credit allocated to new rental units to senior housing and 20% of the credit allocated to new rental units to “rural areas.” In addition, at least 10% of the credit to be allocated in a calendar year, must be set aside for qualified rural development preservation projects that incur at least $100,000 in improvements.

A copy of the proposed replacement rule may be found at [www.mainehousing.org](http://www.mainehousing.org).

*Upon sufficient notice, this notice and the proposed rule will be made available in alternative formats for persons with disabilities and in alternative languages for persons with limited English proficiency.*

PUBLIC HEARING: A public hearing will be held on Tuesday, August 18, 2020 at 9:30 a.m.. To listen or testify, please contact Gerrylynn Ricker no later than 5:00 p.m. on Friday, August 14, 2020 at MaineHousing, 26 Edison Drive, Augusta, Maine 04330-6046; (207) 626-4600 (voice); 1 (800) 452-4668 (voice in state only); or 711 (Maine Relay), or via email: [gricker@mainehousing.org](mailto:gricker@mainehousing.org). *Upon sufficient notice, appropriate communications auxiliary aids and services will be provided to persons with disabilities and persons with limited English proficiency.*

COMMENT DEADLINE: Friday, August 28, 2020 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MAINEHOUSING RULEMAKING LIAISON: Linda Uhl, Chief Counsel, Maine State Housing Authority, State House Station #89, 26 Edison Drive, Augusta, Maine 04330-6046. Telephone: (207) 626-4600, (800) 452-4668 (voice in state only) or Maine Relay 711. Email: [luhl@mainehousing.org](mailto:luhl@mainehousing.org) .

IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 30-A MRS §§ 4722, 4741.1; 36 MRS §5219-WW

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same as above.

MAINEHOUSING WEBSITE: <https://www.mainehousing.org/> .

**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. 201**, Administration and Enforcement of Establishments Regulated by the Health Inspection Program (HIP)

ADOPTED RULE NUMBER: **2020-165**

CONCISE SUMMARY: The DHHS, Maine CDC is adopting an increase of its licensing fees for eating places (excluding municipal licenses, schools, electrologists, and senior citizen meal sites), lodging places, campgrounds, combination licenses, youth camps, public pools/spas, tattooist and body piercers. The fee increases in this rule are within the statutory caps or have otherwise been designated routine technical by statute. The Maine CDC has determined that these fee increases are necessary to keep the program solvent, ensuring that inspections continue for the health and safety of people served at facilities licensed through HIP.

EFFECTIVE DATE: July 29, 2020

MAINE CDC CONTACT PERSON: Andrew Hardy, Maine CDC, 11 State House Station - 286 Water Street, Augusta, ME 04333-0011. Telephone: (207) 287-4490. Email: [Andrew.Hardy@Maine.gov](mailto:Andrew.Hardy@Maine.gov)

MAINE CDC RULES 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](mailto:Tera.Pare@Maine.gov) .

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

MAINE DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov) .

AGENCY: **05-071 - State Board of Education** *(in coordination with the Department of Education)*

CHAPTER NUMBER AND TITLE: **Ch. 112** *(New)*, Professional Standards Board

ADOPTED RULE NUMBER: **2020-166**

CONCISE SUMMARY: This rule contains procedures guiding the operations of the Professional Standards Board in its role under Title 20-A ch. 502-B to make recommendations to the State Board and advise the Department of Education.

EFFECTIVE DATE: July 26, 2020

CONTACT PERSON / RULEMAKING LIAISON: Jaci Holmes, Maine Department of Education, Maine Department of Education, 23 State House Station, Augusta, ME 04333.

Telephone: (207) 624-6669. Email: [Jaci.Holmes@Maine.gov](mailto:Jaci.Holmes@Maine.gov) .

WEBSITE: <https://www.maine.gov/doe/home> .

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

CHAPTER NUMBER AND TITLE: **Ch. 890** *(New)*, Designation of PFOS and its Salts as Priority Chemicals

ADOPTED RULE NUMBER: **2020-167**

CONCISE SUMMARY: Ch. 890 designates perfluorooctane sulfonic acid (“PFOS”) and its designated salts as priority chemicals and requires reporting for certain product categories that contain these regulated chemicals. The rule applies to manufacturers of specified product categories that contain intentionally added amounts of PFOS and its salts.

EFFECTIVE DATE: July 28, 2020

DEP CONTACT PERSON / RULEMAKING LIAISON: Mark Margerum, DEP, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7842. [Mark.T.Margerum@Maine.gov](mailto:Mark.T.Margerum@Maine.gov) .

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

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: **2020-168**

CONCISE SUMMARY: This routine technical rule adoption implements the federal lead-dust hazard standards that went into effect January 2020. The scope and extent of this rulemaking is consistent with the proposed rule change which is limited to the changes to the definition of “lead-contaminated dust” established by the emergency rule. This rule aligns with the new U.S. Environmental Protection Agency (EPA) standards that reduced concentration levels of lead from the previous standards, which was 40 micrograms lead per square foot (µg/ft2) on floors and 250 µg/ft2 on window sills, to the lower standard that is 10 µg/ft2 on floors and 100 µg/ft2 on window sills.

EFFECTIVE DATE: July 29, 2020

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

MAINE CDC RULES 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](mailto:Tera.Pare@Maine.gov) .

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

MAINE DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov) .

**NOTICE**

AGENCY: **94-591** – Secretary of State (SOS), **Motor Carrier Review Board**

CHAPTER NUMBERS AND TITLES:

**Ch. 1**, Bylaws of the Maine Motor Carrier Review Board

**Ch. 2**, The Process for the Selection and Review of Motor Carriers

**Ch. 3**, Hearing Procedures

The Board was repealed by P.L. 2019 ch. 634, effective June 16, 2020. Consequently the three rule chapters have been repealed by operation of law.