**State of Maine: Notice of Agency Rulemaking – August 7, 2024 ONLINE**

**NOTICE OF STATE RULEMAKING**

**PUBLIC INPUT FOR RULES** A list of state agency rule proposals is published here each Wednesday. You can get a copy of a proposed rule by contacting the person listed in the notice. You can comment on a proposed rule by submitting a written comment to the agency or by attending the public hearing, if one is scheduled. If no hearing is scheduled, you can request one.  The agency must hold a hearing if it receives 5 or more requests.  If you have a disability and need assistance to participate in a hearing you should tell the agency at least 7 days before the hearing. **ONLINE INFORMATION** Weekly notices, full text of adopted rules, and a list of agency rulemaking contacts are available at this website: [https://www.maine.gov/sos/cec/rules/index.html](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fsos%2Fcec%2Frules%2Findex.html&data=05%7C02%7CJ.Chris.Parr%40maine.gov%7C645b27059f0346864d7008dc94834bf0%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C638548538834447354%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=K93i9Iukz%2F4M1hnG1XnmVSNiEpRD2zB99vb6RheIZ8A%3D&reserved=0)

**PROPOSALS**

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

**CHAPTER NUMBER AND TITLE: 02-031, Ch. 850, Health Plan Accountability**

**TYPE OF RULE: Major Substantive**

**PROPOSED RULE NUMBER: 2024-P231**

BRIEF SUMMARY: The proposed rule amendment updates the rule to account for the changes in law made by Public Law 2021, Chapter 603 and by Public Law 2023, Chapter 680, and to comply with new federal requirements imposed by the Department of Health and Human Services (HHS) Notice of Benefit and Payment Parameters for 2024.

PUBLIC HEARING *(if any)*: August 28, 2024, 10:00 am, Department of Professional and Financial Regulation, Bureau of Insurance, Central Conference Room, 76 Northern Avenue, Gardiner, ME 04345, the link for hybrid video access will be posted at <https://www.maine.gov/pfr/insurance/news-public-notices/public-event-notices>

COMMENT DEADLINE: 4:30 p.m., September 7, 2024, by mail or e-mail to the Contact Person.

CONTACT PERSON FOR THIS FILING *(include name, mailing address, telephone, fax, TTY, email)*: Karma Lombard, 34 State House Station, Augusta, ME 04333-0034. (207) 624-8415, TTY users use Maine Relay 711, Karma.Y.Lombard@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*: N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: none

STATUTORY AUTHORITY FOR THIS RULE: Title 24-A M.R.S.A. §§ 2772, 2774, 4218, 4218-A, 4222-A, 4303, 4309, and 4309-A. The 2020 Amendments were promulgated by the Superintendent pursuant to unallocated provisions in Public Law 2019, Chapters 171, 238, and 273 authorizing Routine Technical Amendments

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: Public Law 2021, Chapter 603 and by Public Law 2023, Chapter 680, and new federal requirements imposed by the Department of Health and Human Services (HHS) Notice of Benefit and Payment Parameters for 2024

AGENCY WEBSITE: <https://www.maine.gov/pfr/insurance/legal/rules/index.html#proposed>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Stacy.L.Bergendahl@maine.gov

**AGENCY: 10-149 Department of Health and Human Services, Office of Aging and Disability Services**

**CHAPTER NUMBER AND TITLE:** **Repeal Title 14-197, Chapter 3, Definition of Mental Retardation and Autism; Appeal Procedure; Replace with Title 10-149, Chapter 5, Section 2, Developmental Disability Services for Adults with an Intellectual Disability or Autism Spectrum Disorder**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P236, -P237**

BRIEF SUMMARY:

The purpose of the rulemaking is to clarify the application process for Developmental Services available at OADS that are supported exclusively with state funds. The rule also removes descriptions of internal agency processes regarding client intake and eligibility determination, updates the tests for determining whether an applicant has an intellectual disability (abandoning the harmful terminology of years past) and Autism Spectrum Disorder, and identifies the state-funded Developmental Disability Services available from OADS.

Specifically, this rulemaking proposes to:

* repeal 14-197 C.M.R. ch. 3 and its definitions and appeal processes;
* replace that rule with a new rule to be codified as 10-149 C.M.R. ch. 5, sec. 2;
* establish an explicit process for applying for and receiving Developmental Disability Services from OADS;
* clarify that state-funded Developmental Disability Services are distinct from and unaffected by eligibility for MaineCare services, including HCBS Waiver services for adults with an Intellectual Disability or Autism Spectrum Disorder;
* adopts specific definitions applicable to applications for state-funded Developmental Disability Services;
* updates the tests for determining whether an applicant has an intellectual disability or Autism Spectrum Disorder, in reference to the current characterizations of those disabilities in statute and in the Diagnostic and Statistical Manual of Mental Disorders;
* adds requirements for providing notice of the Department’s decisions regarding applications for Developmental Disability Services;
* withdraws the current appeal process, including Director- and Commissioner-level reviews, and replaces this process with an appeal process that utilizes the administrative hearing process applicable to other state-funded and MaineCare eligibility determinations;
* adds a timeliness standard for such appeals; and
* adds a statement of the Department’s obligation to preserve the confidentiality of applications and their review and disposition.

The proposed rulemaking also would align the structure and numbering of the replacement rule with OADS’ current rulemaking format.

The Office of Aging and Disability Services (OADS) is currently divided into two Chapters: 10-149 (formerly the Office of Elder Services) and 14-197 (formerly the Office of Adults with Cognitive and Physical Disability Services). OADS is completing the process of combining these two former State agencies into one by eliminating use of 14-197 and creating a single comprehensive OADS Policy Manual under 10-149. This rulemaking repeals the current 14-197 Chapter 3 and replaces it with 10-149, Chapter 5, Section 2: Developmental Disability Services.

The proposed rule also contains many formatting corrections, ensures use of gender-neutral language, and includes many clarifying edits.

Finally, the Department does not anticipate that this rule will have any impact on municipalities, counties, or small businesses.

See the [DHHS rulemaking webpage](https://www.maine.gov/sos/cec/rules/10/chaps10.htm) for rules and related rulemaking documents.

PUBLIC HEARING: The public hearing will be held at 9am Eastern Time (US and Canada) on Wednesday August 14, 2024, at the Department of Health and Human Services, 109 Capitol St., Augusta, ME. An online option is available via Zoom at: <https://mainestate.zoom.us/j/84404300581?pwd=WWtLidhbdbCVaEcw4pG9aNTLq1VzB3.1>.

COMMENT DEADLINE: The Department will accept comments via e-mail and U.S. Mail until 11:59 PM Eastern Time (US and Canada) on Saturday August 24, 2024.

CONTACT PERSON FOR THIS FILING:

Connor Kelley

Maine Department of Health and Human Services

Office of Aging and Disability Services

41 Anthony Avenue

Augusta, Maine 04333-0011

PHONE: 207-592-1952

EMAIL: Rulemaking.OADS@maine.gov

FAX: (207) 287-9915

TTY: 711 (Deaf or Hard of Hearing)

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: N/A

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

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S. § 42(1); 22-A M.R.S. § 205; 34-B M.R.S. §§ 5432, 5465, and 6003

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: emily.a.cathcart@maine.gov

**AGENCY: 02-041 Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation**

**CHAPTER NUMBER AND TITLE: Chapter 10, Establishment of License Fees (Amend)**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P238**

BRIEF SUMMARY: During the 131st Legislature, LD 2214 (enacted as P.L. 2023, c. 643) mandated that no later than December 1, 2024, the Director of the Office of Professional and Occupational Regulation must amend the fee rule (Chapter 10, section 16) regarding elevators and tramways. The law requires fees to be amended to the extent necessary to cover the ongoing costs of two additional Elevator Inspector positions, and to allow for a future reclassification or reorganization of all Elevator Inspector positions, as well as allow for an evaluation to address recruitment and retention. The law also directs that in amending the rules, there should be consideration of reimbursement for necessary travel and expenses associated with elevator inspections as a part of the ongoing costs, and an effort to consolidate fees charged pursuant to the Maine Revised Statutes, Title 32, section 15224 and initial inspection fees pursuant to Title 32, section 15225-A.

This proposed rulemaking implements LD 2214 by increasing and consolidating fees charged for the inspection and plan review of elevators and tramways regulated by the program.

Copies of the proposed rule and rulemaking forms may be found at https://[www.maine.gov/pfr/professionallicensing/professions/elevator-tramway-safety-program.](http://www.maine.gov/pfr/professionallicensing/professions/elevator-tramway-safety-program) Please scroll down to “What’s New” and “Rulemaking.”

PUBLIC HEARING *(if any)*: N/A. Pursuant to 5 M.R.S. § 8052(1) and § 8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing.

COMMENT DEADLINE: Friday, September 6, 2024, at 5:00 p.m. (EST) Comments may be submitted in writing to OPOR Director Anne Head, at 35 State House Station, Augusta, ME 04333-0035, anne.l.head@maine.gov

CONTACT PERSON FOR THIS FILING: Anne Head, OPOR Director, 35 State House Station, Augusta, ME 04333-0035, anne.l.head@maine.gov, 207-624-8511, TTY users call Maine Relay 711.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*: N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: Not known. There will be an increase in certain plan review and inspection fees that may affect municipalities or counties when installing an elevator or tramway on property owned by that municipality or county.

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 15224, 15225-A; 10 M.R.S. § 8003(2-A)(D)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): P.L. 2023, c. 643, Part E

AGENCY WEBSITE: https://[www.maine.gov/pfr/professionallicensing/](http://www.maine.gov/pfr/professionallicensing/)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: anne.l.head@maine.gov

**AGENCY: 02-514, Department of Professional and Financial Regulation, Maine Board of Counseling Professionals Licensing**

**CHAPTER NUMBER AND TITLE:**

**Chapter 1 Definitions**

**Chapter 2 Licensed Professional Counselors**

**Chapter 3 Licensed Clinical Professional Counselors**

**Chapter 4 Licensed Marriage and Family Therapists**

**Chapter 5 Licensed Pastoral Counselors**

**Chapter 7-A Continuing Education**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: P239 to -P244**

BRIEF SUMMARY: All above chapters are being amended to change “regionally accredited” to “accredited” in order to bring the rules into compliance with a United States Department of Education (DOE) ruling, as set forth in a letter titled Final Accreditation and State Authorization Regulations dated February 26th, 2020, which eliminated the differentiation between "regional” and “national” accreditation, transitioning instead to define “institutional” and “programmatic” accreditation. The letter further explained that the "Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded.”

PUBLIC HEARING *(if any)*: N/A. Pursuant to 5 M.R.S. § 8052(1) and

§8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in

writing to contact person for this filing.

COMMENT DEADLINE: Friday, September 6, 2024 at 5:00 p.m. Comments may be submitted in

writing to the contact person for this filing.

CONTACT PERSON FOR THIS FILING: Kristina M. Halvorsen, 35 State House Station, Augusta, ME 04333, 207-624-8420, TTY: Maine relay 711, Kristina.m.halvorsen@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*: N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 13853(2) and 13858(8);

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Anne L. Head, Director Anne.L.Head@maine.gov

**AGENCY: 10-149 Department of Health and Human Services, Office of Aging and Disability Services**

**CHAPTER NUMBER AND TITLE: Title 10-149, Chapter 4, § 63, Home-Based Supports and Services for Older and Disabled Adults**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P245**

BRIEF SUMMARY: This proposed rulemaking is necessitated by the adoption of Public Law 2023, Chapter 412, which is the biennium budget for July 1, 2023, through June 30, 2025 that was signed into law by the Governor during the 2023 special legislative session . The budget allocated $5.5 million for Home-Delivered Meals for certain eligible older adults, and this rule operationalizes this service. Additionally, this proposed rule clarifies the monetary cap on the annual cost of respite services for older adults, and it clarifies the limit at which monthly service hour caps can be exceeded for adults receiving Adult Day Services reimbursable by Home Based Supports and Services (HBSS) funds. It also makes formatting adjustments for consistency.

Section 63 is a hybrid routine technical / major substantive rule. However, no changes to the major substantive part of the rule – subsection 63.12 – are proposed. As a result, this rulemaking follows the provisions for routine technical rulemaking in the Maine Administrative Procedure Act.

PUBLIC HEARING: N/A

COMMENT DEADLINE: The Department will accept comments via e-mail and U.S. Mail until 11:59 PM Eastern Time (US and Canada) on Friday September 6, 2024.

CONTACT PERSON FOR THIS FILING

Connor Kelley, Policy Manager

Maine Department of Health and Human Services

Office of Aging and Disability Services

41 Anthony Avenue

11 State House Station

Augusta, Maine 04333-0011

PHONE: 207-592-1952

EMAIL: rulemaking.oads@maine.gov

FAX: (207) 287-9915

TTY: 711 (Deaf or Hard of Hearing)

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: N/A

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

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S. § 42(1), 22 M.R.S. § 7303, 34-B M.R.S. § 5439

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Public Law 2023, Chapter 412.

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: emily.cathcart@maine.gov

**ADOPTIONS**

**AGENCY: 02-318, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Electricians’ Examining Board**

**CHAPTER NUMBER AND TITLE: Chapter 180, Licensure by Endorsement**

**ADOPTED RULE NUMBER: 2024-166**

**CONCISE SUMMARY:**

The adopted rule implements 10 M.R.S. § 8003-H allowing persons licensed to work on electrical installations in other jurisdictions within the United States to receive electrician licenses in Maine provided the issuing jurisdiction has substantially equivalent license requirements.  The rule describes the requirements for licensure by endorsement and sets forth specific parameters for determining if a jurisdiction has substantially similar licensing requirements.

**EFFECTIVE DATE: Monday, July 22, 2024**

AGENCY CONTACT PERSON: Anne Head, Director, OPOR

AGENCY NAME: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Electricians’ Examining Board

ADDRESS: 35 State House Station, Augusta, ME 04333-0035

TELEPHONE: 207-624-8511, TTY users call Maine Relay 711

**AGENCY: 65-407, Maine Public Utilities Commission**

**CHAPTER NUMBER AND TITLE: Chapter 397, Rule Governing Procurement of Renewable Energy Promoting the Use of Contaminated Land.**

**ADOPTED RULE NUMBER: 2024-172**

**CONCISE SUMMARY**

The Commission adopts Chapter 397 in accordance with 35-A M.R.S. § 3210-J to provide guidance for the procurement of a target amount of renewable energy resources with a preference for resources located on contaminated lands.

**EFFECTIVE DATE**: **Saturday, August 10, 2024**

AGENCY CONTACT PERSON: Pam Kowalchuk, pamela.kowalchuk@maine.gov

AGENCY NAME: Public Utilities Commission

ADDRESS: 18 State House Station, Augusta, ME 04333-0018

TELEPHONE: 207-287-1564

**AGENCY: 94-649 Maine Commission on Public Defense Services**

**CHAPTER NUMBER AND TITLE: Chapter 3, Eligibility Requirements for Specialized Panels**

**ADOPTED RULE NUMBER: 2024-174**

**CONCISE SUMMARY:**

This rule amendment amends the eligibility requirements for an attorney rostered with the Commission to receive assignments in specialized case types.  This amendment also broadens the discretion of the executive director to grant waivers.

**EFFECTIVE DATE: Wednesday, July 31, 2024**

AGENCY CONTACT PERSON: Jim Billings, Executive Director

AGENCY NAME: Maine Commission on Public Defense Services

ADDRESS: 154 State House Station, Augusta, ME 04333