**State of Maine: Notice of Agency Rulemaking – September 25, 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: 02-382 Department of Professional and Financial Regulation, Affiliated Board, Maine Bord of Optometry**

**CHAPTER NUMBER AND TITLE: Repeal and replace existing chapters 1, 2, and 3 to be replaced with:**

**Chapter 1: Initial Licensure and Renewal, Licensure by Endorsement, Fees, Continuing Education**

**Chapter 2: Advisory Rulings**

**Chapter 3: Enforcement, Disciplinary Procedures and Appeals**

**Chapter 4: Telehealth Standards, Uses, and Limitations**

**Chapter 5: Code of Ethics.**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P213 to -P217**

**BRIEF SUMMARY:** The Board is repealing existing chapters 1, 2, and 3 and replacing them with the following chapters:

Chapter 1: Initial Licensure and Renewal, licensure by Endorsement, fees, Continuing Education

Chapter 2: Advisory Rulings

Chapter 3: Enforcement, Disciplinary Procedures and Appeals

Chapter 4: Telehealth Standards, Uses, and Limitations

Chapter 5: Code of Ethics.

Such broad rulemaking is required because the Governor signed a full repeal and replace of the statute governing optometrists as enacted by the 131st legislative sessions and the new statute needs clarifying rules. Rulemaking authority is conferred by 32 M.R.S. Secs. 19204 and 19605.

**PUBLIC HEARING** *(if any)*: Previous in-person public hearing was held on August 9 and written comments were received prior to the deadline on August 20, 2024. On August 30, 2024, the Board met to discuss and made substantial changes in the proposed rules, thereby occasioning the need for further public comment.

NOTE: Changes to the previously proposed rules are in red in the new chapters.

**WRITTEN COMMENT ONLY START DATE:** September 25, 2024

**WRITTEN COMMENT DEADLINE:** October 25, 2024 5:00 p.m.

**CONTACT PERSON FOR THIS FILING:** Tina Carpentier, 113 State House Station, Augusta, ME 04333, Phone: 207-624-8691, Fax: 207-624-8637 and email: [tina.carpentier@maine.gov](mailto:tina.carpentier@maine.gov).

**CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT** *(if different)*: Tina Carpentier, 113 State House Station, Augusta, ME 04333, Phone: 207-624-8691, Fax: 207-624-8637 and email: [tina.carpentier@maine.gov](mailto:tina.carpentier@maine.gov).

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

**STATUTORY AUTHORITY FOR THIS RULE:**

Chapter 1: Fees 32 M.R.S.A. Sec.19202 (3), Sec. 19305 (1), Chapter 1 (2): License by Endorsement: 32 M.R.S.A. Sec. 19303,

Chapter 2: Advisory Rulings 5 M.R.S Sec. 8051, 5 M.R.S. Sec. 9001,

Chapter 3: Enforcement, Disciplinary Procedures and appeals, 5 M.R.S. Sec. 8051; 32 Secs. 19202, 10401, 19402,

Chapter 4: Telehealth Standards, use and Limitations: 32 M.R.S.A. Sec.19601-19605,

Chapter 5 Code of Ethics: 32 M.R.S.A. Sec. 19402.

Note that the Board previously proposed a chapter regarding how to advance from an existing Therapeutic Advanced license to Therapeutic Advanced Glaucoma level license but removed that chapter because the statutory authority for such committee no longer exists.

**SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED** *(if different)*: none

**AGENCY WEBSITE:** <https://www.maine.gov/pfr/professionallicensing/professions/maine-state-board-optometry>

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** O. D. Thomas Nadeau ([tpnod@roadrunner.com](mailto:tpnod@roadrunner.com))

**AGENCY: 99-650 Maine Combat Sports Authority**

**CHAPTER NUMBER AND TITLE: Chapter 2, Fees for Muay Thai Contests and Authorized Participants,**

**TYPE OF RULE: Major Substantive**

**PROPOSED RULE NUMBER: 2024-P283**

**BRIEF SUMMARY:** This rulemaking establishes Chapter 2 of the Authority’s Rules for Muay Thai, which sets fees charged for certification of events and official event participants. The fees will be used to finance in part activities regulated by routine technical rules regulating the sport. Fees established by the rule are:

1. Event Fee $100 per reserved event
2. Promoter $30
3. Matchmaker $30
4. Judge $30
5. Muay Thai Contestant $30
6. Referee, Manager, Second, Trainer, Cutperson, Cornerperson $30
7. Physician $30
8. Timekeeper/Scorekeeper $30
9. Inspectors $00

Certifications issued for categories 2 through 9 are good from the time of being granted to the next thirtieth day of June.

The proposed fees are identical to fees charged in every other combat sport regulated by the Authority.

**PUBLIC HEARING:** October 14, 2024 at 3:00 P.M. in the Pine Room at the Westbrook Community Center, 426 Bridge Street, Westbrook, Maine 04092.

**COMMENT DEADLINE:** October 28, 2024

**CONTACT PERSON FOR THIS FILING**:

Christoper Guild, Chairperson

Combat Sports Authority of Maine

P.O. Box 10525

Portland, ME 04104

Phone: 207-800-7374

Email: [combatsportsmaine@yahoo.com](mailto:combatsportsmaine@yahoo.com)

**CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT*)*:** Same as for filing.

**FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES:** None Directly. Communities in which events are held presumably derive some financial benefit from commerce generated attendant to events, e.g., venue rental, parking fees, hotel and restaurant accommodations, vendors at events.

**STATUTORY AUTHORITY FOR THIS RULE:** 8 M.R.S. Sec. 523

**SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED:** 8 M.R.S. Sec. 523

**AGENCY WEBSITE:** <https://www.mainecombatsports.com>

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** [combatsportsmaine@yahoo.com](mailto:combatsportsmaine@yahoo.com)

**AGENCY: 06-096 Department of Environmental Protection**

**CHAPTER NUMBER AND TITLE: Chapter 138: Reasonably Available Control Technology for Facilities that Emit Nitrogen Oxides (NOx RACT)**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P284**

**BRIEF SUMMARY:**

The Department proposes to revise Chapter 138 to: clarify applicability of the rule; reevaluate NO­x RACT for affected facilities located in the ozone transport region (OTR) due to promulgation of the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS); replace blanket exemptions with alternative emission limits; and remove obsolete requirements.

**PUBLIC HEARING:** 9:00 AM, October 17, 2024, Augusta Civic Center, 76 Community Drive, Augusta

**COMMENT DEADLINE:** October 28, 2024

**CONTACT PERSON FOR THIS FILING:** Lynn Muzzey, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333; (207) 332-1279; [lynn.muzzey@maine.gov](mailto:lynn.muzzey@maine.gov)

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

**FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES** *(if any)*: This proposal may increase costs of waste disposal for some municipalities, depending on the actual cost of the measures used by the affected facilities.

**STATUTORY AUTHORITY FOR THIS RULE:** 38 M.R.S. Secs. 585 and 585-A

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

**AGENCY WEBSITE:** [www.maine.gov/dep/rules](http://www.maine.gov/dep/rules)

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** [Mark.T.Margerum@maine.gov](mailto:Mark.T.Margerum@maine.gov)

**ADOPTIONS**

**AGENCY: 10-144 Department of Health and Human Services, MaineCare Services**

**CHAPTER NUMBER AND TITLE: 10-144 C.M.R, Chapter 101, Chapter II, Section 25, Dental Services and Reimbursement Methodology**

**ADOPTED RULE NUMBER: 2024-215**

**CONCISE SUMMARY:**

The Department of Health and Human Services (“the Department”) adopts this rule to amend 10-144 CMR ch. 101, MaineCare Benefits Manual (the “MBM”) Chapter II, Section 25, Dental Services and Reimbursement Methodology.

On June 28, 2024, the Department adopted an emergency rule, pursuant to 5, M.R.S. Sec. 8054, that made the following changes:

* Section 25.06(A)(1)(Commercial Median Benchmark): This benchmark will be “assessed” rather than “updated” every two years;
* Section 25.06(A)(2)(Medicaid State Average Benchmark): This benchmark will be “assessed” rather than “updated” every two years;
* Section 25.06(B)(3(Temporary Exceptions): These exceptions are being extended from June 30, 2024 to June 30, 2026.

The June 28, 2024 Emergency Rule expires on September 26, 2024. This rulemaking makes permanent the three reimbursement methodology changes described above. The changes to the two benchmarks ensure that reimbursement to Providers will not decrease. The Department conducted a review of data from the Maine Health Data Organization All Payer Claims Database as well as utilizing data from the other states’ Medicaid dental service rates. As a result, the Department concluded that updating the benchmarks would result in an estimated $2.2 million net reduction in reimbursement. The extension for the methodology for Temporary Exceptions for services defined as extraction of an erupted or exposed root and medicament application will continue for another two years. The Department will submit a State Plan Amendment to CMS to these changes and anticipates CMS approval of such.

See [http://www.maine.gov/dhhs/oms/rules/index.html](http://www.maine.gov/dhhs/oms/rules/index.shtml) for rules and related rulemaking documents.

**EFFECTIVE DATE: Wednesday, September 25, 2024**

**AGENCY CONTACT PERSON:**

Catherine Coolidge, Comprehensive Health Planner II MaineCare Services

AGENCY NAME: Division of Policy

ADDRESS: 109 Capitol Street, 11 State House Station, Augusta, Maine 04333-0011

Email: [catherine.coolidge@maine.gov](mailto:catherine.coolidge@maine.gov)

TELEPHONE: (207)-624-4082 FAX: (207)-287-6106; TTY users call Maine relay 711

**AGENCY: 10-148 Department of Health and Human Services**

**CHAPTER NUMBER AND TITLE: 10-148 C.M.R. ch. 6, Child Care Affordability Program Rules**

**(currently Child Care Subsidy Program Rules)**

**ADOPTED RULE NUMBER: 2024-216**

**CONCISE SUMMARY:**

This emergency repeal and replace rulemaking is necessary to comply with Maine statute. P.L. 2023, ch. 412, pt. VVV and P.L. 2023, ch. 643, pt. SS and TT, which made multiple amendments to the statutory authority for what was formerly known as the Child Care Subsidy Program, including:

* Changing the name of the program to “Child Care Affordability Program,”
* Changing the timeline for eligibility determinations for 30 to 15 days,
* Requiring the Department to inform child care providers within 2 business days of when a recipient’s eligibility changes,
* Requiring the Department to reimburse providers within 15 days of receipt of a complete and accurate invoice,
* Requiring the Department to provide retroactive reimbursement to a child care program that provided tuition assistance to an applicant during the application period, and
* Increasing eligibility for child care subsidies from 85% of State Median Income (SMI) to 125% SMI.

The Department has also revised language to clarify parent eligibility determinations and the requirements for a child care provider to qualify to receive CCAP payments.

**EFFECTIVE DATE: Wednesday, September 25, 2024**

**AGENCY CONTACT PERSON:**

Tara Williams

AGENCY NAME: Department of Health and Human Services

ADDRESS: Office of Child and Family Services, 2 Anthony Avenue, August, ME 04330

TELEPHONE: 207-624-7971

**AGENCY: 94-411 Maine Public Employees Retirement System**

**CHAPTER NUMBER AND TITLE: 201 Employer Reporting and Payments**

**ADOPTED RULE NUMBER: Not Applicable (this is a major substantive rule that has been provisionally adopted, not finally adopted).**

**CONCISE SUMMARY:**

This rule governs payroll reporting by employers. The current rule has not been amended since it was adopted in 1985. The new rule repeals and replaces the current rule. The new replacement rule sets expectations for payroll reporting, submission of contributions, and payment of Group Life Insurance premiums and provides for late fees and interest. The new rule also provides that: (1) MainePERS should consider whether there are any extenuating circumstances and whether the employer is attempting in good faith to comply; and (2) any late fees would be credited toward any interest requirement.

**EFFECTIVE DATE**: Not Applicable (this is a major substantive rule that has been provisionally adopted, not finally adopted).

**AGENCY CONTACT PERSON:**

Kathy Morin

AGENCY NAME: Maine Public Employees Retirement System

ADDRESS: P.O. Box 349, Augusta, Maine 04332-0349

**AGENCY: 03-201 Maine Department of Corrections**

**CHAPTER NUMBER AND TITLE: Ch. 15, Domestic Violence Intervention Program Certification (formerly Batterer Intervention Program Certification)**

**ADOPTED RULE NUMBER: 2024-217**

**CONCISE SUMMARY:**

The primary reason this rule is repealed and replaced is to reflect the statutory name change from “batterer intervention program” to “domestic violence intervention program” and to otherwise clarify and update its provisions.

**EFFECTIVE DATE: Saturday, September 28, 2024**

**AGENCY CONTACT PERSON:**

Mary Lucia

AGENCY NAME: Maine Department of Corrections

ADDRESS: 111 State House Station, Augusta, Maine 04333

TELEPHONE: (207) 530-0983

**AGENCY: 16-163 Department of Public Safety, Emergency Medical Services Board (Maine EMS)**

**CHAPTER NUMBER AND TITLE: Chapter 21: Immunization Requirements**

**ADOPTED RULE NUMBER: 2024-218**

**CONCISE SUMMARY:**

The Emergency Medical Services Board is amending its current rules regarding Immunization requirements to add licensed ambulance operators into the definition of a “Covered Emergency Medical Services Person”, and to change the effective date by which a Covered Emergency Medical Services Person must have a valid Certificate of Immunization, Proof of Immunity, or documentation of a Medical Exemption for diseases contained within the chapter that are not Influenza (Seasonal Influenza), so that the requirement is effective at the point a Covered Emergency Medical Services Person is added to the entity’s roster. This amendment also changes its reporting requirements to reflect the changes to the effective date.

**EFFECTIVE DATE: Saturday, September 28, 2024**

**AGENCY CONTACT PERSON:**

Jason J. Cooney, Licensing Agent

AGENCY NAME: Emergency Medical Services Board (Maine EMS)

ADDRESS: 152 State House Station, Augusta, ME 04333-0152

TELEPHONE: 207-626-3864

**AGENCY: 17-387 Maine Pilotage Commission**

**CHAPTER NUMBER AND TITLE: Chapter 2: Pilotage Rates**

**ADOPTED RULE NUMBER: 2024-219**

**CONCISE SUMMARY:**

The Maine Pilotage Commission has codified pilotage rates within the Maine Pilotage Rules. The new rules establish the rates of pilotage that Maine state licensed pilots may charge customers to pilot vessels that transit Maine pilotage waters within the jurisdiction of the Maine Pilotage Commission. Specifically, the waterways covered by this rule include the Kennebec River, Sheepscot River, Penobscot Bay (including Rockland, Camden, Castine, Belfast and Searsport), Penobscot River (including Bucksport, Brewer, and Bangor) Frenchman Bay, Somes Sound, Blue Hill Bay, and Eastport/Cobscook Bay. Pilotage rates vary within Maine waters (from port to port) based on factors including pilotage units which is derived from a mathematical formula largely based on the vessel’s length, breadth, and depth. Other factors include distance and complexity of transits. The Rule also contains additional fees pilots may charge. The new rates will become effective October 1, 2024.

**EFFECTIVE DATE: Tuesday, October 1, 2024**

**AGENCY CONTACT PERSON:**

Brian J. Downey

AGENCY NAME: Maine Pilotage Commission

ADDRESS: 16 State House Station, Augusta, ME 04333-0016

TELEPHONE: (207) 899-7123

**AGENCY: 01-015 Maine Milk Commission, Agriculture, Conservation and Forestry**

**CHAPTER NUMBER AND TITLE: Chapter 3-Schedule of Minimum Prices Order#10-24**

**ADOPTED RULE NUMBER: 2024-220**

**CONCISE SUMMARY:**

The Minimum October 2024 Class I price is $26.42/cwt. plus $1.63/cwt. for the Producer Margin, an over-order premium of $1.04/cwt as prevailing in Southern New England, and a $0.47/cwt. handling fee, for a total of **$29.76/cwt**. that includes a $0**.20**/cwt Federal promotion fee.

**EFFECTIVE DATE: Sunday, September 29, 2024**

**AGENCY CONTACT PERSON:**

Julie-Marie R. Bickford

AGENCY NAME: Maine Milk Commission, DACF

ADDRESS: 28 SHS, Augusta, ME 04333

TELEPHONE: 207-287-7521