**State of Maine: Notice of Agency Rulemaking – September 22, 2021**

**PROPOSALS**

**CORRECTION: REVISED NOTICE OF MEETING (REMOTE ONLY)**

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

PROPOSED RULE NUMBERS: **2021-P147, P148, P149**

TYPE OF RULE: Routine Technical

CHAPTER NUMBERS AND TITLES:

**Ch. 241**, Uniform Reporting System for Hospital Inpatient Data Sets and Hospital Outpatient Data Sets

**Ch. 243**, Uniform Reporting System for Health Care Claims Data Sets

**Ch. 247**, Uniform Reporting System for Non-Claims Based Primary Care Payments

The Maine Health Data Organization will hold a Public Hearing and Board meeting on Thursday, September 23, 2021 – 9 a.m. Remotely. There will not be an in-person option as previously advertised. Remote access to the meeting is as follows:<https://mainestate.zoom.us/j/81753001616> **OR** 1-646-876-9923 meeting ID: 81753001616

CONTACT PERSON: Debra Dodge, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333. Telephone: (207) 287-6722. Fax: (207) 287-6732. Email: Debra.J.Dodge@Maine.gov .

**CORRECTION: REVISED NOTICE OF MEETING (REMOTE ONLY)**

AGENCY: **02-313 - Maine Board of Dental Practice** (*affiliated with the* Department of Professional and Financial Regulation - PFR)

PROPOSED RULE NUMBERS: **2021-P152** *to* **P158**

TYPE OF RULE: Routine Technical

CHAPTER NUMBERS AND TITLES:

**Ch. 1**, Definitions

**Ch. 2**, Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities

**Ch. 3**, Qualifications for Expanded Function Dental Assistant Licensure

**Ch. 5**, Qualifications for Denturist Licensure

**Ch. 6**, Qualifications for Dentist Licensure:

**Ch. 11**, Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licensure and Authorities

**Ch. 17**, Requirements for Establishing a Board Approved Dental Hygiene Therapy Program

The Maine Board of Dental Practice will hold a Public Hearing on Friday, October 8, 2021 – 8:30 a.m. Remotely. There will not be an in-person option as previously advertised. Remote access to the meeting is as follows:<https://mainestate.zoom.us/j/89031190904?pwd=dVU5WVJTWEc0ZENNTVJaUjZPREZZQT09>

Meeting ID: 890 3119 0904 and Passcode: dX%vv9SQ

CONTACT PERSON: Penny Vaillancourt, 161 Capitol Street - 143 State House Station, Augusta, ME 04333. Telephone: (207) 287-3333. Fax: (207) 287-8140. Email: Penny.Vaillancourt@Maine.gov .

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

CHAPTER NUMBER AND TITLE:

**Ch. 100**, Definitions

**Ch. 110**, Conflict of Interest

**Ch. 115**, Advisory Rulings

**Ch. 130**, Examination and Licensing Requirements

**Ch. 135**, Electrical Permits

Repeal:

**Ch. 125**, Scope of Practice

**Ch. 140**, Board Fees

**Ch. 170**, Denial Appeals

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2021-P164** *thru* **P171**

BRIEF SUMMARY: The proposed rulemaking would repeal Ch. 100, Advisory Rulings, and replace it with a new Ch. 100, Definitions, to set forth definitions to further explain terms used in statute; repeal in part Ch. 110, Conflict of Interest; move Advisory Rulings formerly located in Ch. 100 to a newly created Ch. 115, Advisory Rulings; repeal Ch. 125, Scope of Practice in its entirety; make certain amendments to Ch. 130, Examination and Licensing Requirements; repeal in part and amend Ch. 135, Electrical Permits; repeal Ch. 140, Board Fees in its entirety; and repeal Ch. 170, Denial Appeals, in its entirety.

PUBLIC HEARING: October 15, 2021 - 8:00 am. *The hearing will be held at the Office of Professional and Occupational Regulation, 76 Northern Avenue, Gardiner, Maine, unless an emergency or urgent issue requires the Board to meet by remote methods pursuant to 1 MRS §403-B. The hearing may be continued on additional dates if necessary. Comments on the proposed rules may be submitted to the Board Administrator no later than 5:00 p.m., Friday, October 29, 2021 by emailing her at* electrician.board@maine.gov *or by mailing your comments to her at Electricians’ Examining Board, Attn: Catherine M. Carroll, 35 State House Station, Augusta, ME 04333-0035.*

COMMENT DEADLINE: October 29, 2021 by 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Catherine M. Carroll, Board Administrator, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: Catherine.M.Carroll@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 1101, 1102-C(4), 1151, 1153, 1153-A, 1202-A, 1203, 1203-A, 1204; 5 MRS §9001(4); 10 MRS §8007

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

OPOR WEBSITE: [www.maine.gov/professionallicensing](http://www.maine.gov/professionallicensing) .

OPOR RULEMAKING LIAISON: Kristin.Racine@Maine.gov .

AGENCY: **10-148** - Department of Health & Human Services (DHHS), **Office of Child and Family Services (OCFS)**

CHAPTER NUMBER AND TITLE: **Ch. 35**, Children’s Residential Care Facilities (*formerly* 10-144 Ch. 36)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P172, P173**

BRIEF SUMMARY: The Department is proposing rulemaking to repeal 10-144 CMR Ch. 36, *Children’s Residential Care Facilities Licensing Rule*, and replace it with 10-148 CMR Ch. 35, *Children’s Residential Care Facilities Licensing Rule*. Substantive changes from the current rule to the proposed rule include adding new federal requirements in accordance with the Family First Prevention Services Act (FFPSA) of 2018 and removing, modifying, and adding requirements to meet the health and safety needs of residents receiving services.

Significant changes include: specifying exemptions or modifications applicable to specific service types throughout the rule; removing, adding, and clarifying definitions; adding the requirement for participation in quality assurance reviews; adding requirements for licensure application and policies; adding the requirement for accreditation for consideration as a Qualified Residential Treatment Provider (QRTP); requiring a trauma informed treatment milieu for consideration as a QRTP; removing licenses that encompass more than one occupancy; adding a policy for aftercare; removing requirement for medical examination of staff; adding guardian participation as appropriate and required for a QRTP; changing reporting requirement from next business day to 72 hours; adding additional requirements to the comprehensive assessment; removing requirement for crisis units to do a full comprehensive assessment; modifying the frequency requirement for a crisis plan; adding additional discharge requirements; adding new post discharge requirements for consideration as a QRTP; clarifying the requirements of physical health; adding requirements regarding medication administration; clarifying language in behavior management and adding rough handling as a prohibited practice; clarifying previously allowed practice of standing in or near the doorway while engaging in approved de-escalation techniques as the only form of allowed seclusion; adding explicit language that locked seclusion is prohibited in children’s residential care facilities except for Level 2 facilities; adding requirement for Behavioral Health Professional (BHP) certification for QRTP; adding requirements in records management; expanding good judgement to include professional boundaries; adding requirements for comprehensive background checks with fingerprinting and inclusion of specific disqualifying conditions aligning with FFPSA; adding additional comprehensive background check requirements to include professional registries and Adult Protective Services; adding disqualifying driving offenses that prohibit a staff member from transporting; removing, clarifying and adding requirements to staff training; clarifying requirement for seatbelts and child safety seats, adding requirements for QRTP to have both a licensed clinician and registered nurse available 24 hours a day/7 days a week; eliminating requirement for six month clinical review, specifying treatment for persons with intellectual and/or developmental disability as a specialized program and including requirements for assessment and staff supervision; adding requirement for trauma informed treatment milieu; adding ancillary service to include BCBA; clarifying language regarding enforcement; and adding a requirement to notify guardians of current and prospective residents of licensing action.

PUBLIC HEARING: No public hearing

COMMENT DEADLINE: October 22, 2021 at 5 p.m.

CONTACT PERSON FOR THIS FILING: Janet Whitten, 2 Anthony Ave., 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-7068. Email: LicensingRules.OCFS@maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: The proposed rule poses no fiscal impact to counties or municipalities.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §8102

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED*:* *Family First Prevention Services Act (FFPSA)*

AGENCY POLICY WEBSITE: <https://www.maine.gov/dhhs/ocfs/policy.shtml> .

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

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

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 511**, Standards for Actively Seeking Work *(Repeal and replace)*

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P174**

BRIEF SUMMARY: This rule sets out the standards and definitions to be applied in determining under 5 MRS §§ 17929(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work. The proposed rule repeals and replaces the current rule. The new proposed rule: (1) Updates job-seeking requirements by eliminating required in-person job seeking contacts and permitting online applications; (2) Specifies that job applications must be submitted to employers who are accepting applications; (3) Elaborates on activities required to be taken with the Maine Department of Labor Career Center; (4) Clarifies that decisions to suspend benefits are subject to the informal hearing, written decision, and appeals rights in 5 MRS §17105-A; (5) Changes from six to three the number of months that the member can be noncompliant in any twelve-month period before benefits are terminated; (6) Deletes an obsolete provision; and (7) Removes unnecessary language and improves readability.

PUBLIC HEARING: None

COMMENT DEADLINE: October 22, 2021

EMAIL FOR PUBLIC TO SUBMIT COMMENTS: rulemaking@mainepers.org

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MAINEPERS RULEMAKING LIAISON: Kathy J. Morin, Manager, Actuarial and Legislative Affairs, Maine Public Employees Retirement System, P.O. Box 349, Augusta, ME 04332-0349. Telephone: 1-800-451-9800 or (207) 512-3190. Email: Kathy.Morin@mainepers.org .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §17103(4)

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

MAINEPERS WEBSITE: <https://www.mainepers.org/> .

**ADOPTIONS**

AGENCY: **16-642** – Department of Public Safety (DPS), **Bureau of Building Codes and Standards**

CHAPTER NUMBER AND TITLE: **Ch. 7** *(New)*, Maine Uniform Building and Energy Code – Mechanical Code

ADOPTED RULE NUMBER: **2021-181**

CONCISE SUMMARY: This is a new rule adopting the 2015 IMC (*International Mechanical Code*) as directed by the Maine State Legislature.

EFFECTIVE DATE: September 20, 2021

FMO CONTACT PERSON / RULEMAKING LIAISON: Richard Taylor, Senior Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, ME 04333-0052. Telephone: (207) 626-3873; (207) 592-6105. Email: Richard.E.Taylor@Maine.gov .

AGENCY WEBSITE: <https://www.maine.gov/dps/fmo/building-codes> .

AGENCY: **16-642** – Department of Public Safety (DPS), **Office of State Fire Marshal (FMO)**

CHAPTER NUMBER AND TITLE: **Ch. 36**, Consumer Fireworks Sales License

ADOPTED RULE NUMBER: **2021-182**

CONCISE SUMMARY: We currently have Ch. 7 of NFPA (National Fire Protection Association) 1124 adopted, that covers the retail sales portion of consumer fireworks. It has come to our attention that several consumer fireworks retailers are currently storing consumer fireworks in storage facilities remote from their retail location. Without having the entire 1124 standard at our disposal there are not standards for consumer firework storage. LD 180 was presented to the 130th Legislature to rectify this issue but the bill has been carried over to another session. Without this Standard we have no standard to require compliance with. This could pose a public safety issue when there are no safety standards adopted.

EFFECTIVE DATE: September 20, 2021

FMO CONTACT PERSON / RULEMAKING LIAISON: Richard Taylor, Senior Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, ME 04333-0052. Telephone: (207) 626-3873; (207) 592-6105. Email: Richard.E.Taylor@Maine.gov .

FMO WEBSITE: <https://www.maine.gov/dps/fmo/> .

AGENCY: **01-672** - Department of Agriculture, Conservation & Forestry (DACF), **Maine Land Use Planning Commission (LUPC)**

CHAPTER NUMBER AND TITLE: **Ch. 3** *(Repeal)*,Delegation of Authority to Staff

ADOPTED RULE NUMBER: **2021-183**

CONCISE SUMMARY: Ch. 3 has been repealed and all provisions have been relocated and updated in Ch. 4, *Rules of Practice*.

EFFECTIVE DATE: November 1, 2021

LUPC CONTACT PERSON / RULEMAKING LIAISON: Judy East, Maine Land Use Planning Commission, Department of Agriculture, Conservation and Forestry, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-2631. Email: Judith.C.East@Maine.gov .

LUPC WEBSITE: <https://www.maine.gov/dacf/lupc/index.shtml> .

AGENCY: **01-672** - Department of Agriculture, Conservation & Forestry (DACF), **Maine Land Use Planning Commission (LUPC)**

CHAPTER NUMBER AND TITLE: **Ch. 4** *(Repeal and replace)*,Rules of Practice

ADOPTED RULE NUMBER: **2021-184**

CONCISE SUMMARY: Ch. 4 has been reformatted and entirely reorganized. Provisions regarding petition correction and hearing record, delegation of authority to staff, use notifications, permit expiration, and permit renewals have been relocated from Ch. 3, 5, and 10. Ch. 4 now includes clarifications regarding permit transfers, suspension, surrender, appeals, meetings, and digital signatures. This repealed and replaced rule is expected to improve consistency and functionality, and will be significantly easier to reference or otherwise administer.

EFFECTIVE DATE: November 1, 2021

LUPC CONTACT PERSON / RULEMAKING LIAISON: Judy East, Maine Land Use Planning Commission, Department of Agriculture, Conservation and Forestry, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-2631. Email: Judith.C.East@Maine.gov .

LUPC WEBSITE: <https://www.maine.gov/dacf/lupc/index.shtml> .

AGENCY: **01-672** - Department of Agriculture, Conservation & Forestry (DACF), **Maine Land Use Planning Commission (LUPC)**

CHAPTER NUMBER AND TITLE: **Ch. 5** *(Repeal and replace)*,Rules for the Conduct of Public Hearings

ADOPTED RULE NUMBER: **2021-185**

CONCISE SUMMARY: Ch. 5 has been reformatted and reorganized, and provisions regarding petition correction and hearing record have been relocated to Ch. 4, *Rules of Practice*. This repealed and replaced rule is expected to significantly improve consistency and functionality, and will be significantly easier to reference or otherwise administer.

EFFECTIVE DATE: November 1, 2021

LUPC CONTACT PERSON / RULEMAKING LIAISON: Judy East, Maine Land Use Planning Commission, Department of Agriculture, Conservation and Forestry, 22 State House Station, Augusta, ME 04333. Telephone: (207) 287-2631. Email: Judith.C.East@Maine.gov .

LUPC WEBSITE: <https://www.maine.gov/dacf/lupc/index.shtml> .