**State of Maine: Notice of Agency Rulemaking – November 16, 2022**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: http://www.maine.gov/sos/cec/rules. There is also a list of rulemaking liaisons (http://www.maine.gov/sos/cec/rules/liaisons.html), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **02-331** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Maine State Board of Funeral Service**

CHAPTER NUMBER AND TITLE: **Ch. 12**, Transportation of Human Remains *(repeal and replace)*

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2022-P110** *(2nd publication)*

BRIEF SUMMARY: Following a public hearing held on July 12, 2022 and a comment period ending on July 29, 2022, the Board voted at its September meeting to provisionally adopt the proposed major substantive rule titled Ch. 12, *Transportation of Human Remains*. Subsequently and during the review required by 5 MRS §8052(7)(B) and §8056(1)(A), it was determined that the section of Federal Motor Carrier Safety Regulations referenced in the second paragraph of Section 4, subsection D of the rule would need to be fully incorporated by reference pursuant to 5 MRS §8056(1)(B).

In response to that specific finding, and pursuant to 5 MRS §8052(5)(B), the Board is soliciting comments from the public regarding its proposal to remove this reference to federal regulation altogether. The Board had intended the citation to the federal regulation to be a helpful and educational reference, and based on the information it has received that to include the reference in the rule would require incorporating the provision entirely, proposes to omit the reference to Federal Motor Carrier Safety Regulations section 393.102. The other proposed changes are technical changes to correct minor errors.

Copies of the proposed rule and rulemaking documents may be found on the Board’s webpage: <https://www.maine.gov/pfr/professionallicensing/professions/board-funeral-services>. Scroll down to “What’s New” and “Rulemaking.”

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

Comments on the proposed rule may be submitted by emailing Candice.B.Wright@Maine.gov or by mailing comments to the Maine Board of Funeral Service, Attn: Candice Wright, 35 State House Station, Augusta, ME 04333-0035.

COMMENT DEADLINE: Friday, December 16, 2022, 5:00 p.m. Comments may be submitted to Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035: Candice.B.Wright@Maine.gov.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035. Telephone: (207) 624-8601. TTY: Maine relay 711. Email: Candice.B.Wright@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 1451, 1501

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different)*: PL 2021 c. 268

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-funeral-services>.

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

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

CHAPTER NUMBER AND TITLE: **Ch. 803**, Participating Local District Consolidated Retirement Plan

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P213**

BRIEF SUMMARY: This rule governs the Consolidated Plan for Participating Local Districts. Under the current rule, cost-of-living adjustments to eligible retirees are capped at 2.5%. The proposed amendment to the rule sets the cost-of-living adjustment for the period September 1, 2022 to August 31, 2023, to 3.5%.

PUBLIC HEARING: December 8, 2022 - 11:00 a.m., Maine Public Employees Retirement System, 139 Capitol Street, Augusta, Maine

COMMENT DEADLINE: December 19, 2022

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

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / AGENCY RULEMAKING LIAISON: Kathy J. Morin, Director, 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), 18801

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

AGENCY WEBSITE: <https://MainePERS.org/>

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 1** *(New)*, Rights and Basic Protections of Persons with an Intellectual Disability, Autism Spectrum Disorder or Acquired Brain Injury

ADOPTED RULE NUMBER: **2022-223**

CONCISE SUMMARY: This new rule sets forth the rights and basic protections of persons with an intellectual disability, Autism Spectrum Disorder or acquired brain injury in accordance with 22 MRS §3089 and 34-B MRS §5605.

PL 2021 ch. 284 extended certain rights and basic protections set forth in 34-B MRS §5605 to persons with an acquired brain injury; directed the Commissioner to convene a task force to make recommendations on rules and procedures regarding the rights and basic protections of persons with acquired brain injuries; and directed the Department to consider the task force’s recommendations and to adopt rules regarding the rights and basic protections of individuals with an acquired brain injury.

Because the Department had not previously undertaken rulemaking regarding the rights and basic protections of persons with an intellectual disability or Autism Spectrum Disorder, the rule also states the statutory rights and basic protections of these persons. Most of these rights and basic protections apply to all persons with an intellectual disability, Autism Spectrum Disorder, or acquired brain injury – not just those who receive services from a provider that is funded or licensed by the Department. This distinction is reflected in the rule.

The rule also describes the procedures for notifying persons receiving services of their rights and basic protections, and states the remedies available for alleged violations of rights and basic protections.

EFFECTIVE DATE: November 18, 2022

AGENCY CONTACT PERSON: Joseph Zamboni, Policy Manager, Department of Health and Human Services, Office of Aging and Disability Services, 41 Anthony Avenue – 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-9298. Fax: (207) 287-3005. MAINE RELAY: 711. Email: Joseph.Zamboni@Maine.gov.

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

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

DHHS RULEMAKING LIAISON: Sara.Gagne-Holmes@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 8** *(Amend)*, Grievance Process for Persons with an Intellectual Disability, Autism Spectrum Disorder or Acquired Brain Injury

ADOPTED RULE NUMBER: **2022-224**

CONCISE SUMMARY: This rule establishes the procedures by which a recipient of services with an intellectual disability, autism spectrum disorder, or an acquired brain injury may grieve and seek resolution of complaints regarding actions or inactions of the Department or providers affecting the recipient’s statutory rights, or services.

The Department is updating and clarifying requirements for its grievance procedure rule. Specifically, this rule implements PL 2021 ch. 284, *An Act to Improve the Rights and Basic Protections of Persons with Acquired Brain Injuries,* §§ A-2, A-8, which provide individuals with an acquired brain injury the right to submit a grievance*.* This rule revises the definition of grievance and provides new deadlines for the resolution of grievances and includes a six-month savings clause for grievances that accrued prior to the effective date of the proposed rule. Further, the Department is proposing to clarify the grievance procedure for a person receiving services if an individual has a grievance against his or her case manager. This rule also clarifies the role of Maine’s Protection and Advocacy Agency and affords the Commissioner discretion whether to issue an Order of Reference when an administrative hearing is requested, and thus reserve the final decision for herself.

EFFECTIVE DATE: November 18, 2022

AGENCY CONTACT PERSON: Joseph Zamboni, Policy Manager, Department of Health and Human Services, Office of Aging and Disability Services, 41 Anthony Avenue – 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-9298. Fax: (207) 287-3005. MAINE RELAY: 711. Email: Joseph.Zamboni@Maine.gov.

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