**State of Maine: Notice of Agency Rulemaking – November 25, 2020**

**PROPOSALS**

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

CHAPTER NUMBERS AND TITLES: **Ch. 100**, Definitions; **Ch. 115**, Advisory Rulings *(relocated & renumbered)*

TYPE OF RULES: Routine Technical

PROPOSED RULE NUMBERS: **2020-P217, P218**

**BRIEF SUMMARY**: The proposed rulemaking defines “Photovoltaic Racking System” and relocates and renumbers a chapter regarding Advisory Rulings. Go to [https://www.maine.gov/pfr/professionallicensing/professions/electricians/index.html](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fpfr%2Fprofessionallicensing%2Fprofessions%2Felectricians%2Findex.html&data=04%7C01%7CKristin.Racine%40maine.gov%7C372ec7cd583c4daae1de08d871155966%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637383683785693168%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=h2QWuE62es0xadPfP5WrVaFehHve%2Fw9DD85Q5%2BrqQFk%3D&reserved=0) to find the proposed rules and related rulemaking documents.

**DETAILED SUMMARY**: The proposed rulemaking will repeal 02-318 ch. 100, *Advisory Rulings* and replace with 02-318 ch. 100, *Definitions*, and relocate and renumber the rules regarding Advisory Rulings to a newly created 02-318 ch. 115.

The proposed rulemaking will define the term “photovoltaic racking system”, clarifying that the construction or installation of the supporting structure of a photovoltaic system is not an “electrical installation” pursuant to 32 MRS §1101(2):

“Photovoltaic racking system” means the supporting structure for solar panels and for some other components of a photovoltaic system. The construction or installation of the supporting structure of a photovoltaic system, including racking and mounting equipment such as frames, racks, rails and footings, is not an electrical installation.

**PUBLIC HEARING**: December 18, 2020, 9:00 a.m. *If the state of emergency in response to the novel coronavirus disease known as COVID-19 is still in place at the time of the hearing, the hearing will be held through remote access pursuant to 1 MRS §403-A. The information needed to access the hearing remotely will be posted on the Board’s website at:* *<https://www.maine.gov/pfr/professionallicensing/professions/electricians/board_meetings.shtml>.*

*If the state of emergency no longer exists at the time of the hearing, the hearing will be held at the Office of Professional and Occupational Regulation, 76 Northern Avenue, Gardiner, Maine. 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., Wednesday, December 30, 2020 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: December 30, 2020 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 *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 1101, 1153; 5 MRS §9001(4)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kristin.Racine@Maine.gov .

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 895**, Underground Facility Damage Prevention Requirements

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2020-P219**

BRIEF SUMMARY: The Public Utilities Commission initiates a limited rulemaking proceeding to amend its *Underground Facility Damage Prevention Rule* (ch. 895) as required to implement recently enacted legislation (PL 2019 c. 592 and PL 2019 c. 322).

PUBLIC HEARING: *December 14, 2020 at 9:00 a.m., at the Commission. Due to the coronavirus pandemic the public hearing will be held by telephone. The call-in information is as follows: dial: (877) 455-0244, conference code: 343 150 2806# (please call in 5 minutes prior to the scheduled start time).*

COMMENT DEADLINE: December 28, 2020. Written comments on the proposed rule may be filed with the Administrative Director until close of business on December 28, 2020. However, the commission requests that comments be filed by close of business on December 10, 2020 to allow for follow up inquires during the hearing. Supplemental comments may be filed after the hearing. Written comments should refer to the docket number of this proceeding, Docket No. 2020-00264, and be filed using the Commission’s case management system (CMS) which is accessible from the Commission’s website.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Paulina Collins, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1566. Email: Paulina.Collins@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact

STATUTORY AUTHORITY FOR THIS RULE: 23 MRS §3360-A; 35-A MRS §§ 104, 111; Public Law 2019 c. 322 and Public Law 2019 c. 592

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

AGENCY WEBSITE: [www.maine.gov/mpuc](http://www.maine.gov/mpuc) .

MPUC RULEMAKING LIAISON: Jamie.A.Waterbury@Maine.gov .

AGENCY: **94-270 - Commission on Governmental Ethics and Election Practices**

CHAPTER NUMBER AND TITLE: **Ch.1**, Procedures

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2020-P220**

BRIEF SUMMARY: A candidate who had received traditional campaign contributions that did not comply with seed money restrictions who decided to run for a different office would have a limited opportunity to participate in the *Maine Clean Election Act* program for the second office.

PUBLIC HEARING: Friday, December 18, 2019 @ 9:00 a.m. Meeting held by Zoom videoconference.

COMMENT DEADLINE: 5:00 p.m., Tuesday, January 5, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Lorrie J. Brann, Commission Assistant, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, ME 04333. Telephone: (207) 287-4179. Email: Lorrie.J.Brann@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No impact

STATUTORY AUTHORITY FOR THIS RULE: 1 MRS §1003(1); 21-A MRS §1126

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: None

AGENCY WEBSITE: <http://www.maine.gov/ethics> .

AGENCY: **02-502** - Maine Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Complementary Health Care Providers**

CHAPTER NUMBER AND TITLE:

**Ch. 1**, Definitions *(Amended)*

**Ch. 4-A**, Licensure Requirement for Certified Professional Midwives *(New), including* Ch. 4-B, Licensure Requirements for Certified Midwives *(New)*

**Ch. 5**, Standards for Continuing Professional Education for Acupuncturists, Naturopathic Doctors, Certified Professional Midwives and Certified Midwives *(Amended)*

**Ch. 6-A**, Standards Relating to Certified Professional Midwives Authority to Obtain and Administer Drugs, Medical Devices and Scope of Practice *(New)*

**Ch. 6-B**, Standards Relating to Certified Midwives’ Prescriptive Authority and Scope of Practice *(New)*

**Ch. 7**, Grounds for Discipline *(Amended)*

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2020-P221** *to* **P226**

BRIEF SUMMARY: The principal purpose to implement the Public Law 2016 ch. 502 that was enacted into law on April 29, 2016 (LD 690, *An Act to Ensure the Safety of Home Birth*). The proposed rules clarify certain terms used in the practice of professional midwifery, sets standards for licensing professional midwives and certified professional midwives, update continued professional education requirements to include certified professional midwives and certified midwifes and clarifies continuing education hardship requests and carry over hours for all licensees licensed by the Board, standards for certified professional midwife practice including authorization to order and interpret medical laboratory tests and ultrasound scanning and obtain equipment and supplies, standards relating to certified midwives’ prescriptive authority and scope of practice, and updates the grounds for discipline to include certified professional midwives and certified midwives.

PUBLIC HEARING: December 16, 2020, 9:00 a.m. EST. Location**:** Due to the current situation of the 2019 novel coronavirus (COVID-19) and the need to avoid public gatherings, maintain public distance, and for everyone’s safety this meeting will be held virtually. Information to listen in to this meeting will be posted on the Board’s website at [Information to join the Zoom meeting online](https://www.maine.gov/pfr/professionallicensing/professions/complementary/board_meetings.shtml) .

COMMENT DEADLINE: December 28, 2020, 5:00 p.m. (EST)

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Geraldine L. Betts, Administrator, 35 State House Station, Augusta ME 04333. Telephone: (207) 624-8625. TTY users call Maine relay 711. Email: Geraldine.L.Betts@Maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3), (4) and (5), 12537(2), (3), (4) and (5), 12538, and 12543(1)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

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

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

**ADOPTIONS**

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. VII Section 5**, Estate Recovery

ADOPTED RULE NUMBER: **2020-234**

CONCISE SUMMARY: The Department of Health and Human Services (“the Department”) adopts this rule to clarify when an estate recovery claim is subject to recovery in accordance with guidance from the federal Centers for Medicare and Medicaid Services (CMS). Specifically, it changes the requirement in Section 5.04-1, Processing Claims Against Assets, part D, to state that any surviving child who is blind or permanently and totally disabled, be disabled at the time the Department seeks recovery. The previous marker was set at the time of the member’s death.

The Department also proposes the following changes:

**\*** Adding language to 5.04-1(D) to define the phrase, “the time the Department seeks recovery” to mean the earlier of (1) the date of the Department’s notice of claim to the legally authorized representative of the estate or known family members or heirs; or (2) the date on which the Department files a claim in Probate Court.

**\*** Adding numbering to 5.07(A) to clarify the application process requirements for all waivers.

**\*** Adding language to 5.08(A)(1)(b) to provide guidance on how the 180% of the Federal Poverty is determined by the Department and what income and asset information is required by the applicant for evaluation.

**\*** Adding language for clarification to 5.08(B)(2)(a) to specify 24-hour a day care must be provided to the member and adding an additional requirement that the member could not be receiving in-home services.

**\*** Adding clarification to 5.08(B)(2) that an applicant will receive the highest allowable waiver in instances when an applicant may qualify for more than one care given hardship waiver.

**\*** Updating language in 5.09(B) for clarification of the current Departmental reference.

**\*** Adding clarification to 5.10(A) to incorporate limits of allowable expenses following the Member’s death and the requirement the decedent’s property was vacant.

**\*** Finally, the Department is proposing minor language, clerical, and reference number edits.

Following review as to form and legality, the Department is adding language in various provisions of the final rule to indicate that the Department shall submit and anticipates CMS approval of the changes via a State Plan Amendment.

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

EFFECTIVE DATE: November 30, 2020

OMS CONTACT PERSON: Cari Philbrick, Office of MaineCare Services, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4031. Fax: (207) 287-6106. TTY users call Maine relay 711. Email: Cari.Philbrick@Maine.gov .

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

OMS RULEMAKING LIAISON: Thomas.Leet@Maine.gov .

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

ADOPTED RULE NUMBER: **2020-235** *(to be published next week)*

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

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

ADOPTED RULE NUMBER: **2020-236**

CONCISE SUMMARY: This rule governs the Consolidated Plan for Participating Local Districts. Under the current rule, except with a time limited exception during the COVID-19 crisis, local districts may only join the Plan or change their plans effective July 1, or January 1. The amendment permits local districts to make these changes at any time, and establishes the first of the month following the date that the agreement for participation is signed by the Executive Director and the authorized representative of the local district as the effective date of the change. The amendment also makes a correction to the military service provision to align it with State law.

EFFECTIVE DATE: November 25, 2020

MAINEPERS CONTACT PERSON / 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 .

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