

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2004

S.P. 798

December 18, 2007

An Act To Establish the Department of Substance Abuse Services

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 2007. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **PART A**

3 **Sec. A-1. 5 MRSA §12004-G, sub-§15-A**, as reenacted by PL 1993, c. 631, §1,
4 is amended to read:

5 **15-A.**

6 Substance	Driver Education	\$75/Day	5 MRSA
7 Abuse	and Evaluation		§20078-A
8	Programs Appeals		<u>22-B MRSA</u>
9	Board		<u>§408</u>

10 **Sec. A-2. 5 MRSA §12004-I, sub-§78-B** is enacted to read:

11 **78-B.**

12 <u>Substance</u>	<u>Provider</u>	<u>Expenses Only</u>	<u>22-B MRSA</u>
13 <u>Abuse Services</u>	<u>Partnership</u>		<u>§211</u>
14	<u>Advisory Council</u>		

15 **Sec. A-3. 5 MRSA c. 521**, as amended, is repealed.

16 **Sec. A-4. 22-A MRSA §201, sub-§2, ¶D**, as enacted by PL 2005, c. 412, §5, is
17 amended to read:

- 18 D. The Integrated Services Unit, which includes:
- 19 (1) The Office of Adult Mental Health Services;
 - 20 (2) The Office of Adults with Cognitive and Physical Disability Services;
 - 21 (3) The Office of Advocacy Services;
 - 22 (4) The Office of Child and Family Services;
 - 23 (5) The Office of Elder Services;
 - 24 (6) The State Forensic Service; and
 - 25 ~~(7) The Office of Substance Abuse Services; and~~
 - 26 (8) The Office of Integrated Services Quality Improvement.

27 **Sec. A-5. 22-A MRSA §203, sub-§1**, as enacted by PL 2003, c. 689, Pt. A, §1, is
28 amended to read:

29 **1. Programs and services for adults, children and families.** The department shall
30 provide adults, children and families with the following programs and services:

- 31 A. Economic assistance and employment support services;

- 1 B. Mental health and behavioral health services;
- 2 C. Mental retardation and developmental disability services;
- 3 D. Physical health services; and
- 4 E. Public health services; and.
- 5 ~~F. Substance abuse prevention and treatment services.~~

6 **Sec. A-6. 22-B MRSA** is enacted to read:

7 **TITLE 22-B**

8 **SUBSTANCE ABUSE SERVICES**

9 **SUBTITLE 1**

10 **DEPARTMENT OF SUBSTANCE ABUSE SERVICES**

11 **CHAPTER 1**

12 **DEPARTMENTAL ORGANIZATION AND OPERATION**

13 **SUBCHAPTER 1**

14 **GENERAL PROVISIONS**

15 **§101. Definitions**

16 As used in this Title, unless the context otherwise indicates, the following terms have
17 the following meanings.

18 1. Commissioner. "Commissioner" means the Commissioner of Substance Abuse
19 Services.

20 2. Department. "Department" means the Department of Substance Abuse Services.

21 **SUBCHAPTER 2**

22 **ORGANIZATION**

23 **§201. Department established**

24 1. Establishment. The Department of Substance Abuse Services is established ~~as a~~
25 cabinet-level department.

1 **2. Bureaus and divisions.** The department consists of the bureaus and divisions
2 necessary to carry out the work of the department.

3 **3. Seal.** The department has an official seal, which must be judicially noticed.

4 **§202. Mission; guiding principles**

5 **1. Mission.** The mission of the department is to promote, assist in developing and
6 coordinate or conduct programs of:

7 **A.** Education and research for the prevention of alcohol and drug addiction and for
8 the treatment, including intervention, of alcoholics and persons who abuse drugs; and

9 **B.** Education, enforcement and research for the prevention of tobacco use by
10 juveniles and smoking cessation programs for juveniles who already use tobacco
11 products.

12 **2. Guiding principles.** The following principles are adopted to guide the
13 department. In the performance of its duties, the department shall strive to:

14 **A.** Improve the health and well-being of residents of the State, with this goal guiding
15 all decisions, programs and services of the department;

16 **B.** Treat consumers with respect and dignity;

17 **C.** Treat providers with professionalism and collegiality;

18 **D.** Value and support department staff as the critical connection to the consumer;

19 **E.** Involve consumers, providers, advocates and staff in long-term planning;

20 **F.** Use relevant, meaningful data and objective analyses of population-based needs in
21 program planning, decision making and quality assurance; and

22 **G.** Deliver services that are individualized, family-centered, easily accessible,
23 preventive, independence-oriented, interdisciplinary, collaborative, evidence-based
24 and consistent with best practices.

25 **§203. Duties**

26 **The department shall:**

27 **1. Abstinence-based.** Ensure that programs within the mission of the department
28 include abstinence-based prevention and treatment programs;

29 **2. Efficient delivery among agencies.** Promote, coordinate and ensure efficient
30 delivery efforts in the provision of alcohol and drug abuse or addiction services by other
31 state agencies, including courts; hospitals; clinics; physicians in private practice; public
32 health authorities; licensing boards involved with alcohol abuse, drug addiction and
33 mental health services; alcohol and drug addiction programs; law enforcement agencies;
34 and related groups;

35 **3. Coordination of programs.** Coordinate all programs and activities authorized by
36 the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and

1 Rehabilitation Act of 1970, Public Law 91-616 (1982), as amended, and by the Drug
2 Abuse Office and Treatment Act of 1972, 21 United States Code, section 1101, et seq., as
3 amended, and all other state and federal programs or laws related to drug abuse
4 prevention that are not the specific responsibility of another state agency under state or
5 federal law;

6 **4. Motor vehicle operator programs.** Administer and oversee the operation of the
7 State's programs related to the abuse of alcohol by motor vehicle operators;

8 **5. Planning and evaluation of services.** Ensure the collection, analysis and
9 dissemination of information for planning and evaluation of alcohol and drug abuse or
10 addiction services and develop measures for evaluating the effectiveness of alcohol and
11 drug addiction services and for increasing the accountability of alcohol and drug
12 addiction programs;

13 **6. Training for individual providers.** Provide for education, certification and
14 training for physicians, nurses, social workers, professional counselors, psychologists and
15 other persons who provide alcohol and drug addiction services in prevention, diagnosis,
16 treatment and control of alcohol and drug abuse and addiction;

17 **7. Standards for facilities and programs.** Provide training, certification, operating
18 and treatment standards and consultation for treatment facilities and programs;

19 **8. Training for front-line staff.** Establish a comprehensive training strategy
20 designed to develop the capacity of front-line staff in direct human services positions,
21 health care workers, law enforcement officers, judicial employees, correctional officers
22 and educators to recognize, assess and refer chemically dependent clients for appropriate
23 treatment;

24 **9. Obtain input.** Develop and document an active, aggressive effort to obtain client
25 and public input;

26 **10. Analyze other services.** Analyze the existing services system, including the
27 prevention services offered within the State's school systems, identify priorities for
28 expanding or revising existing services and develop a specific plan to accomplish any
29 critical changes or goals as needed;

30 **11. Correctional facilities.** Cooperate and coordinate with the Department of
31 Corrections for the provision of alcohol and substance abuse services within correctional
32 facilities;

33 **12. Liaison with Judicial Department.** Provide to the Judicial Department, and
34 annually update, a list of the treatment and education programs within that court's
35 jurisdiction that the court may require an offender, sentenced pursuant to Title 15, chapter
36 507 or Title 17-A, chapter 49, 54-F or 54-G, to attend; and

37 **13. Annual report.** By January 15th of each year, report to the joint standing
38 committee of the Legislature having jurisdiction over health and human services matters
39 concerning the accomplishments of the past year's programs, the progress toward
40 obtaining goals and objectives and other necessary or desirable information.

1 **§204. Cooperation of outside agencies**

2 All law enforcement agencies, all state departments, including the Department of
3 Health and Human Services and the Department of Public Safety, and municipalities shall
4 cooperate with the department in fulfillment of the purposes of this Title.

5 **§205. Programs and services of department; administration**

6 The department shall, as appropriate to individuals and families and as permitted by
7 the availability of funds, provide programs and services as specified in this Title and
8 otherwise by law. The department shall deliver programs and services through a
9 coordinated and efficient administrative structure and an integrated delivery system that
10 focuses on meeting the needs of individuals and families. The department shall use a
11 combination of public personnel and contracts with private agencies to deliver programs
12 and services.

13 In addition to other applicable requirements and unless precluded by other restrictions
14 on the use of funds, the commissioner shall manage all funds available for the provision
15 of alcohol or other drug abuse services in accordance with the provisions of this section.

16 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
17 following terms have the following meanings.

18 A. "Agreement" means a legally binding written document between 2 or more
19 parties, including those documents that are commonly referred to as accepted
20 application, proposal, prospectus, contract, grant, joint or cooperative agreement,
21 purchase of service or state aid.

22 B. "Performance-based contract" means an agreement for the purchase of direct
23 client services employing a client-centered, outcome-oriented process that is based on
24 measurable performance indicators and desired outcomes and includes the regular
25 assessment of the quality of services provided.

26 **2. Performance-based contract.** The commissioner shall ensure that all agreements
27 to purchase alcohol or other drug abuse services are performance-based contracts.

28 **3. Grants.** The department may accept and administer grants from public or private
29 sources for carrying out any of the duties enumerated in this section and section 203. The
30 department is authorized to make grants to municipalities within the State or to nonprofit
31 corporations organized for purposes related to substance abuse and treatment, including
32 tobacco prevention, education and enforcement for juveniles, out of federal funds when
33 such grants are permitted by the terms under which federal funds are available. Grants
34 must be made in conformity with applicable federal requirements and standards and with
35 appropriate state accounting requirements and in accordance with rules of the department.

36 **4. Procedures.** The following procedures apply whenever the commissioner
37 commences a request-for-proposal procedure.

38 A. The commissioner shall hold at least one informational meeting at least 30 days
39 before the due date for submission of the notice of intent to bid. Any informational
40 meeting must be advertised in newspapers of general circulation stating the location.

1 date, time and purpose of the meeting. At the meeting the commissioner shall provide
2 detailed information to any interested party about the contract to be bid or rebid,
3 provide notice of anticipated major changes from any previous contract and respond
4 to questions.

5 B. The commissioner shall require any interested party to submit a notice of intent to
6 bid at least 30 days before the date bids will be accepted as a precondition to
7 submitting a formal bid. The notice of intent must contain minimal requirements that
8 demonstrate a prospective bidder's competence and ability to comply with the
9 requirements of the contract.

10 C. If only one community-based service provider submits a notice of intent to bid,
11 the commissioner may enter into negotiations concerning a contract with that
12 provider in accordance with the procedures established for performance-based
13 contracts.

14 D. For purposes of this section, the commissioner retains the right to reject any bids
15 submitted and any proposals made during negotiations pursuant to paragraph C.

16 5. Rules. The commissioner shall adopt rules under the general rule-making
17 authority granted under section 207, subsection 2 to implement this section, including,
18 but not limited to, the establishment of program goals, outcome measures, an information
19 management system to collect and manage contract data, a system of ongoing assessment
20 of program effectiveness and hold-harmless guidelines for provider agencies during the
21 first contract period or 12 months, whichever is greater.

22 §206. Commissioner

23 The department is under the control and supervision of the Commissioner of
24 Substance Abuse Services, who reports directly to the Governor.

25 1. Appointment. The Governor shall appoint the commissioner, subject to review by
26 the joint standing committee of the Legislature having jurisdiction over health and human
27 services matters and confirmation by the Senate. The commissioner serves at the pleasure
28 of the Governor.

29 2. Vacancy; deputy commissioner. A vacancy in the office of the commissioner
30 must be filled as follows.

31 A. Any vacancy of the commissioner's position must be filled in accordance with
32 Title 5, section 1.

33 B. The commissioner shall appoint one of the department's deputy commissioners to
34 perform the duties of the commissioner, in addition to the duties of that deputy
35 commissioner, during the commissioner's temporary absence or disability.

36 §207. Powers and duties of commissioner

37 The commissioner has all of the powers and duties necessary to carry out the mission
38 and responsibilities of the department.

1 1. Administration. The commissioner shall administer the department in accordance
2 with the requirements of this Title and shall fulfill the duties prescribed to the
3 commissioner by state and federal law.

4 2. Rulemaking. The commissioner shall adopt rules to implement this Title. Rules
5 adopted pursuant to this subsection are routine technical rules, as defined in Title 5,
6 chapter 375, subchapter 2-A, unless otherwise specified. The commissioner shall provide
7 the joint standing committee of the Legislature having jurisdiction over health and human
8 services matters with a quarterly report that summarizes rule-making activity of the
9 department.

10 3. Employees. The commissioner may employ personnel as necessary to carry out
11 the work of the department. All personnel of the department are under the immediate
12 supervision, direction and control of the commissioner. Department personnel must be
13 employed subject to the Civil Service Law, except for deputy commissioners, associate
14 commissioners, assistant deputy commissioners, bureau directors, the director of legal
15 affairs and regional directors.

16 4. Appointments. The commissioner may appoint deputy commissioners, associate
17 commissioners, assistant deputy commissioners, bureau directors, the director of legal
18 affairs and regional directors who serve at the pleasure of the commissioner. These
19 positions are unclassified, major policy-influencing positions as specified in Title 5,
20 sections 931 and 946-A. A bureau director appointed pursuant to this subsection must
21 have educational qualifications and professional experience directly related to the
22 functions of and services provided by the relevant unit or office.

23 **§208. Comprehensive program on alcoholism and drug abuse**

24 The department shall establish and provide for the implementation of a
25 comprehensive and coordinated program of alcohol and drug abuse prevention and
26 treatment.

27 1. Public and private resources. All appropriate public and private resources must
28 be coordinated with and used in the program.

29 2. Program. The program must include emergency treatment provided by a facility
30 affiliated with a general hospital or with part of the medical service of a general hospital.

31 3. Treatment. The department shall provide for adequate and appropriate treatment
32 for alcoholics, drugs abusers, drug addicts and drug-dependent persons admitted under
33 sections 304 and 305. Treatment may not be provided at a correctional institution, except
34 for inmates.

35 4. Contract with facilities. The department shall contract with approved treatment
36 facilities whenever possible. The administrator of any treatment facility may receive for
37 observation, diagnosis, care and treatment in the facility any person whose admission is
38 applied for under any of the procedures in this subchapter.

1 **§209. Program to reduce tobacco use by juveniles**

2 The department shall work with state and local agencies to enhance enforcement of
3 state laws relating to the sale and use of tobacco products by juveniles and shall
4 coordinate state and local activities related to those provisions. The department shall take
5 all necessary actions to ensure compliance with the Public Health Service Act, 42 United
6 States Code, Section 300x-26, also known as the "Synar Amendment," including the
7 preparation of reports for the signature of the Governor.

8 **§210. Planning**

9 The department shall plan alcohol and drug abuse prevention and treatment activities
10 in the State and prepare and submit to the Legislature:

11 **1. Biennial plan.** By January 15, 2009, and biennially thereafter, with the advice and
12 consultation of the Provider Partnership Advisory Council created under section 211, a
13 comprehensive plan containing statements of measurable goals to be accomplished during
14 the coming biennium and establishing performance indicators by which progress toward
15 accomplishing those goals will be measured; and

16 **2. Four-year assessment.** By January 15, 2009, and every 4th year thereafter, an
17 assessment of the costs related to drug abuse in the State and the needs for various types
18 of services within the State, including geographical disparities in the needs for various
19 types of services and the needs of special populations of drug abusers.

20 **§211. Provider Partnership Advisory Council**

21 **1. Creation.** The Provider Partnership Advisory Council, referred to in this section
22 as "the council," is created within the department.

23 **2. Membership, appointments.** The council consists of 10 voting members:

24 **A.** Seven members representing substance abuse service providers including at least
25 2 licensed alcohol and drug counselors, at least 2 representatives of approved
26 treatment facilities and at least 2 representatives of prevention programs;

27 **B.** One member of the public;

28 **C.** One educator; and

29 **D.** One person representing consumers of services.

30 The commissioner serves as a nonvoting, ex officio member of the council.

31 The Governor shall appoint members of the council. The Governor shall select the 7
32 substance abuse service provider members after consultation and advice from the Maine
33 Association of Substance Abuse Programs, or its successor organization.

34 An employee of the department may not serve as a member of the council prior to the
35 expiration of one year from that employee's last day of employment with the department.

36 **3. Length of term.** Vacancy appointments are for a term of 3 years and until
37 successors are appointed and qualified. A person may not serve more than 2 consecutive

1 3-year terms. On the death, resignation or removal from office of any person appointed to
2 the council, the Governor shall appoint a member to serve for the unexpired term.

3 4. Duties. The council shall render to the commissioner information and advice
4 concerning administration of the department, increasing provider input, improving
5 communication and business processes and enhancing collaboration between the
6 department and providers.

7 5. Meetings. All meetings of the council are public meetings and must be held in a
8 public meeting place convenient for the public. Public notice of all regular and special
9 council meetings must be published in a daily newspaper of general circulation in the
10 geographic area where the meeting is scheduled at least 7 days and not more than 21 days
11 prior to the meeting. That notice must include an agenda or statement of purpose of the
12 meeting. That notice may be combined with any other notice of the meeting required by
13 law.

14 6. Compensation. Members are entitled to compensation as provided in Title 5,
15 chapter 379.

16 SUBCHAPTER 3

17 PREVENTION AND TREATMENT SERVICES

18 §301. Prevention

19 The department shall provide prevention services in accordance with this section.

20 1. Public awareness. The department shall create and maintain a program to
21 increase public awareness of the impacts and prevalence of alcohol and drug abuse. The
22 public awareness program must include promotional and technical assistance to local
23 governments, schools and public and private nonprofit organizations interested in alcohol
24 and drug abuse prevention.

25 As part of its public awareness program, the department shall operate an information
26 clearinghouse and oversee, support and coordinate a resource center within the
27 Department of Education. The information clearinghouse and resource center constitute a
28 comprehensive reference center of information related to the nature, prevention and
29 treatment of alcohol and other drug abuse. Information must be available for use by the
30 general public, political subdivisions, public and private nonprofit agencies and the State.
31 Information contained may include research on the causes and nature of alcohol, drugs,
32 substance abuse and people who abuse or are dependent on substances; statistical data
33 and information; and educational materials and an inventory and description of substance
34 abuse prevention and treatment programs, facilities and services available in this State.

35 2. Education. To the fullest extent possible, the Commissioner of Education shall
36 coordinate all elementary and secondary school alcohol and drug abuse education
37 programs administered by the Department of Education and funded under the federal
38 Drug-Free Schools and Communities Act of 1986, as amended, with programs
39 administered by the department. The Commissioner of Education shall participate in

1 planning, budgeting and evaluating alcohol and other drug abuse programs, in
2 cooperation with the Provider Partnership Advisory Council created under section 211,
3 and ensure that alcohol and drug abuse education programs administered by the
4 Department of Education that involve any community participation are coordinated with
5 available treatment services of the department.

6 Nothing in this subsection interferes with the authority of the Department of Education to
7 receive and allocate federal funds under the federal Drug-Free Schools and Communities
8 Act of 1986, as amended.

9 **§302. Certification**

10 The department shall establish operating and treatment standards and inspect and
11 certify substance abuse treatment facilities, including residential treatment centers,
12 community-based service providers and facilities that are private nonmedical institutions.

13 **1. Examination; fees.** The department shall periodically enter, inspect and examine
14 a treatment facility or program and examine its books, programs, standards, policies and
15 accounts. This examination process must include a review of the requirements to be a
16 community-based service provider. The department shall fix and collect the fees for the
17 inspection and certification and shall maintain a list of approved public and private
18 treatment facilities.

19 **2. Information.** Upon request by the department, each approved public or private
20 treatment facility under subsection 1 must provide data, statistics, schedules and
21 information that the department reasonably requires. The commissioner may remove a
22 facility that fails to provide such information from the list of approved facilities.

23 **3. No refusal authorized.** An approved public or private treatment facility may not
24 refuse inspection or examination by the department under this section.

25 **4. Decertification.** Procedures to decertify any public or private facility or to refuse
26 certification are governed by the Maine Administrative Procedure Act.

27 **5. Rules.** The department is authorized to adopt rules for the setting of standards,
28 procedures and fees for the issuance of certificates. Rules adopted under this subsection
29 are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

30 **§303. Evaluation**

31 **1. Data collection; sources.** The department shall collect data and use information
32 from other sources to evaluate or provide for the evaluation of the impact, quality and
33 value of alcohol and drug abuse prevention activities, treatment facilities and other
34 alcohol and drug abuse programs.

35 **2. Content of evaluation.** Any evaluation of treatment facilities must include, but is
36 not limited to, administrative adequacy and capacity, policies and treatment planning and
37 delivery. Alcohol and drug abuse prevention and treatment services authorized by this
38 subchapter and by the following federal laws and amendments that relate to drug abuse
39 prevention must be evaluated:

- 1 A. The Drug Abuse Office and Treatment Act of 1972, 21 United States Code,
2 Section 1101 et seq. (1982);
- 3 B. The Community Mental Health Centers Act, 42 United States Code, Section 2688
4 et seq. (1982);
- 5 C. The Public Health Service Act, 42 United States Code, Section 1 et seq. (1982);
- 6 D. The Vocational Rehabilitation Act, 29 United States Code, Section 701 et seq.
7 (1982);
- 8 E. The Social Security Act, 42 United States Code, Section 301 et seq. (1982); and
- 9 F. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and
10 Rehabilitation Act of 1970, Public Law 91-616 (1982) and similar acts.

11 **§304. Acceptance for treatment**

12 The department shall adopt rules under the general rule-making authority of section
13 207, subsection 2 for acceptance of persons into a treatment program, considering
14 available treatment resources and facilities, for the purpose of early and effective
15 treatment of alcoholics, drug abusers, drug addicts and drug-dependent persons.

16 In establishing rules, the department must be guided by the following standards.

17 **1. Voluntary basis.** People must be treated on a voluntary basis.

18 **2. Initial assignment.** A person must be initially assigned or transferred to outpatient
19 or intermediate treatment, unless the person is found to require residential treatment.

20 **3. Denial of treatment.** A person may not be denied treatment solely because that
21 person has withdrawn from treatment against medical advice on a prior occasion or has
22 relapsed after earlier treatment.

23 **4. Individualized treatment plan.** An individualized treatment plan must be
24 prepared and maintained on a current basis for each patient.

25 **5. Coordinated treatment.** Provisions must be made for a continuum of coordinated
26 treatment services, so that a person who leaves a facility or a form of treatment has
27 available and may use other appropriate treatment.

28 **6. Denial of treatment services.** A person, firm or corporation licensed by the
29 department as an approved alcohol or drug treatment facility to provide shelter or
30 detoxification services, and that receives any funds administered by the department, may
31 not deny treatment to any person because of that person's inability or failure to pay any
32 assessed fees.

33 **7. Community based.** Treatment must be provided in the least restrictive setting
34 possible and in the person's home community wherever possible.

35 **8. Diagnosing.** Diagnosing of a person's mental capabilities, psychological or
36 personality composition or other non-alcohol-related or non-drug-related conditions or

1 mental states may not be conducted until detoxification is complete and the person is
2 judged to be medically no longer under the influence of a chemical or substance of abuse.

3 **§305. Voluntary treatment of substance-dependent persons**

4 **1. Voluntary treatment.** An alcoholic, drug abuser, drug addict or drug-dependent
5 person may apply for voluntary treatment directly to an approved treatment facility.

6 **2. Determination.** A person who comes voluntarily or is brought to an approved
7 treatment facility for residential care and treatment must be examined immediately by a
8 licensed physician. That person may then be admitted or referred to another health facility
9 based upon the physician's recommendation. Subject to rules adopted by the department,
10 the administrator in charge of an approved treatment facility may determine who may be
11 admitted for treatment. If a person is refused admission to an approved treatment facility,
12 the administrator, subject to rules adopted by the department, shall refer the person to
13 another approved treatment facility for treatment if possible and appropriate.

14 **3. Outpatient or intermediate treatment.** If a person receiving residential care
15 leaves an approved treatment facility, that person must be encouraged to consent to
16 appropriate outpatient or intermediate treatment.

17 **4. Discharge.** If a person leaves an approved treatment facility against the advice of
18 the administrator in charge of the facility and that person does not have a home, the
19 person must be assisted in obtaining shelter.

20 **§306. Records**

21 **1. Registration and records.** Registration and other records of treatment facilities
22 are confidential and are privileged to the patient.

23 **2. Information for research.** Notwithstanding subsection 1, the commissioner may
24 make available information from patients' records for purposes of research into the causes
25 and treatment of alcoholism and drug abuse. Information under this subsection may not
26 be published in a way that discloses patients' names or other identifying information.

27 **§307. Visitation and communication with patients**

28 **1. Hours of visitation.** Subject to reasonable rules regarding hours of visitation,
29 which the commissioner may adopt under the general rule-making authority of section
30 207, subsection 2, patients in any approved treatment facility must be granted
31 opportunities for adequate consultation with counsel and for continuing contact with
32 family and friends consistent with an effective treatment program.

33 **2. Communication.** Mail or other communication to or from a patient in any
34 approved treatment facility may not be intercepted, read or censored. The commissioner
35 may adopt reasonable rules under the general rule-making authority of section 207,
36 subsection 2 regarding the use of telephones by patients in approved treatment facilities.

37 **3. Restrictions.** The patient may exercise all civil rights, including, but not limited
38 to, civil service status; the right to vote; rights relating to the granting, renewal, forfeiture

1 or denial of a license, permit, privilege or benefit pursuant to any law; and the right to
2 enter contractual relationships and to manage the patient's property, except:

3 A. To the extent the commissioner determines that it is necessary for the medical
4 welfare of the patient to impose restrictions unless the patient has been restored to
5 legal capacity; or

6 B. When specifically restricted by other laws or rules.

7 Restrictions on the exercise of civil rights may not be imposed on any patient solely
8 because of the fact of that person's admission to a mental hospital.

9 **§308. Payment for treatment; financial ability of patients**

10 1. Payment. If treatment is provided by an approved treatment facility and the
11 patient has not paid the charge for that treatment, the treatment facility is entitled to any
12 payment received by the patient or to which the patient may be entitled because of the
13 services rendered, and from any public or private source available to the treatment facility
14 because of the treatment provided to the patient.

15 2. Liability. A patient in an approved public treatment facility, or the estate of the
16 patient, or a person obligated to provide for the cost of treatment who has sufficient
17 financial ability, is liable to the treatment facility for the cost of maintenance and
18 treatment of the patient in accordance with established rates.

19 3. Finances. The commissioner shall adopt rules under the general rulemaking
20 authority of section 207, subsection 2 governing financial ability that take into
21 consideration the patient's income, savings, other personal and real property and any
22 support being furnished to any other person that the patient is required by law to support.

23 **SUBCHAPTER 4**

24 **DRIVER EDUCATION AND EVALUATION PROGRAMS**

25 **§401. Definitions**

26 As used in this subchapter, unless the context otherwise indicates, the following
27 terms have the following meanings.

28 1. ~~Alcohol-related or other drug-related motor vehicle incident.~~ "Alcohol-related
29 or other drug-related motor vehicle incident" means a conviction or administrative action
30 resulting in the suspension of a motor vehicle operator's license for a violation under:

31 A. Former Title 29, section 1311-A; section 1312, subsection 10-A; section 1312-C;
32 section 1312-B; section 1313-B; section 2241, subsection 1, paragraph N; section
33 2241-G, subsection 2, paragraph B, subparagraph (2); or section 2241-J;

34 B. Title 29-A, section 1253; section 2411; section 2453; section 2454, subsection 2;
35 section 2456; section 2457; section 2472, subsection 3, paragraph B and subsection 4;
36 section 2503; sections 2521 to 2523; or section 2525; or

1 C. The rules adopted by the Department of the Secretary of State for the suspension
2 of commercial driver's licenses.

3 2. Client. "Client" means a person who is required to complete an alcohol and other
4 drug education, evaluation and treatment program for an alcohol-related or other drug-
5 related motor vehicle incident.

6 3. Completion of treatment. "Completion of treatment," for the purpose of
7 recommendation by the department to the Secretary of State concerning restoration of a
8 driver's license to a client, means that the client has responded to treatment to the extent
9 that there is a substantial probability that the client will not be operating under the
10 influence. This substantial probability may be shown by:

11 A. An acknowledgment by the client of the extent of the client's alcohol or drug
12 problem;

13 B. A demonstrated ability to abstain from the use of alcohol and drugs; and

14 C. A willingness to seek continued voluntary treatment or to participate in an
15 appropriate self-help program, or both, as necessary.

16 4. First offender. "First offender" means a client who has had no previous alcohol-
17 related or other drug-related motor vehicle incident within a 10-year period.

18 5. Multiple offender. "Multiple offender" means a client who has had more than one
19 alcohol-related or other drug-related motor vehicle incident within a 10-year period or has
20 had a previous incident prior to the 10-year period for which the client has not completed
21 a Driver Education and Evaluation Program as established in section 402.

22 **§402. Driver Education and Evaluation Programs**

23 The Driver Education and Evaluation Programs are established in the department.
24 The Driver Education and Evaluation Programs shall administer the alcohol and other
25 drug education, evaluation and treatment programs as provided in this chapter. The
26 department shall certify to the Secretary of State:

27 1. Completion of Driver Education and Evaluation Programs. Those individuals
28 who satisfactorily complete a program pursuant to section 403; and

29 2. Completion of treatment other than Driver Education and Evaluation
30 Programs. Those individuals who satisfy the requirements for completion of treatment
31 by means other than a program pursuant to section 403.

32 **§403. Programs and components; rules**

33 The department shall design programs and components that are age-appropriate and
34 therapeutically appropriate. The department shall adopt routine technical rules pursuant to
35 the general rule-making authority of section 207, subsection 2 regarding requirements for
36 these programs and components and any other rules necessary to implement this
37 subchapter.

1 **§404. Separation of evaluation and treatment functions**

2 A Driver Education and Evaluation Programs private practitioner or a counselor
3 employed by a substance abuse facility approved or licensed by the department providing
4 services under this subchapter may not provide both treatment services and evaluation
5 services for the same client participating in programs under this subchapter unless a
6 waiver is granted on a case-by-case basis by the Driver Education and Evaluation
7 Programs. The practitioner or counselor providing evaluation services shall give a client
8 the name of 3 practitioners or counselors who can provide treatment services, at least one
9 of whom may not be employed by the same agency as the practitioner or counselor
10 conducting the evaluation.

11 **§405. Certification; recertification**

12 All providers of the evaluation, intervention and treatment components of the Driver
13 Education and Evaluation Programs must be certified by the department. The certification
14 period for providers, whether an individual or an agency or facility, is 2 years. The
15 department shall adopt routine technical rules pursuant to the general rule-making
16 authority of section 207, subsection 2 requiring continuing education for recertification.

17 **§406. Fees**

18 The department shall set fees in accordance with the cost of each program. All fees
19 must be transferred to the General Fund. The department may waive all or part of any fee
20 for a client who provides sufficient evidence of inability to pay.

21 **§407. Reports**

22 The commissioner shall report annually by February 1st to the joint standing
23 committees of the Legislature having jurisdiction over transportation and health and
24 human services matters regarding the department's activities under this subchapter. A
25 copy of the report must be sent to the Executive Director of the Legislative Council.

26 **§408. Appeals**

27 The Driver Education and Evaluation Programs Appeals Board, established in Title 5,
28 section 12004-G, subsection 15-A, is referred to as "the board" in this subchapter and is
29 governed by this section.

30 **1. Qualifications.** Each member of the board must have training, education,
31 experience and demonstrated ability in successfully treating clients who have substance
32 abuse problems. Board members may not hold current certificates to provide driver
33 education, evaluation and treatment services during their terms of appointment.

34 **2. Appointment; term; removal.** The board consists of 3 members appointed by the
35 Governor for 2-year terms; a vacancy occurring prior to the expiration of a term must be
36 filled by appointment for the unexpired term. The Governor for cause may remove
37 members.

1 3. Facilities; staff. The commissioner shall provide staff support and adequate
2 facilities for the board.

3 4. Chair; rules. The board shall elect annually a chair from its members. The
4 commissioner shall adopt rules under the general rule-making authority of section 207,
5 subsection 2 to carry out the purposes of this section.

6 5. Compensation. Each member of the board is entitled to compensation in
7 accordance with Title 5, chapter 379.

8 6. Appeal from decision. A client of Driver Education and Evaluation Programs
9 may:

10 A. Appeal to the board a failure to certify completion of treatment pursuant to
11 section 402, subsection 2; and

12 B. Appeal to the board an evaluation decision referring the client to treatment or a
13 completion of treatment decision. A client may appeal under this paragraph only after
14 the client has sought a 2nd opinion of the need for treatment or of satisfactory
15 completion of treatment.

16 7. Appeal procedure and action. An appeal is heard and decided by one board
17 member. The board may affirm or reverse the decision of the treatment provider or
18 agency, require further evaluation, make a finding of completion of treatment or make an
19 alternate recommendation. The board, after due consideration, shall make a written
20 decision and transmit that decision to the Driver Education and Evaluation Programs and
21 the client who appealed the case. The decision of the board is final agency action for
22 purposes of judicial review pursuant to Title 5, chapter 375, subchapter 7.

23 SUBCHAPTER 5

24 DRUG TREATMENT CENTERS

25 §501. Definition of drug treatment center

26 The term "drug treatment center," as used in this subchapter, means a residential
27 facility, not licensed as a medical care facility under Title 22, chapter 405, for the care,
28 treatment or rehabilitation for drug addiction and drug abuse, including alcohol addiction
29 and abuse.

30 §502. Rules

31 The commissioner shall adopt rules for drug treatment centers, including, but not
32 limited to, rules pertaining to administration, staffing, number of residents, quality of
33 treatment programs, health and safety of staff and residents, community relations,
34 administration of medication and licensing procedures. Rules adopted pursuant to this
35 section are major substantive rules, as defined in Title 5, chapter 375, subchapter 2-A.

1 **§503. Fees**

2 The department shall charge an annual fee of \$50 for regular licenses and a fee of \$50
3 for temporary or conditional licenses for drug treatment centers.

4 **§504. Fire safety**

5 All provisions included in Title 22, section 7855, subsections 1 and 2 for residential
6 care facilities apply to drug treatment centers.

7 **§505. Additional license not required**

8 A facility, except as provided for in Title 22, section 8101, subsection 4, licensed as a
9 drug treatment center may not be required to be licensed as a boarding care facility or a
10 children's home. A drug treatment center, as part of its program, may provide a special
11 education facility, as defined in Title 20-A, section 7001, subsection 6, for the benefit of
12 any child with a disability, as defined by Title 20-A, section 7001, subsection 1-B,
13 residing at the drug treatment center.

14 **Sec. A-7. Bureau structure; restriction.** The Commissioner of Substance
15 Abuse Services may not establish a bureau structure for the new Department of Substance
16 Abuse Services until that structure has been approved by the Legislature.

17 **Sec. A-8. Staggered terms for members of the Provider Partnership**
18 **Advisory Council.** Notwithstanding the Maine Revised Statutes, Title 22-B, section
19 211, subsection 3, the Governor shall make initial appointments to the Provider
20 Partnership Advisory Council so that 4 members serve for 3 years, 3 members serve for 2
21 years and 3 members serve for one year.

22 **Sec. A-9. Staggered terms for members of Driver Education and**
23 **Evaluation Appeals Board.** Notwithstanding the Maine Revised Statutes, Title 22-
24 B, section 408, subsection 2, any member of the Driver Education and Evaluation
25 Programs Appeals Board serving on the effective date of this Act continues to serve until
26 the expiration of the term for which that member was appointed.

27 **PART B**

28 **Sec. B-1. Commissioner's Implementation Advisory Council.**

29 **1. Creation.** The Commissioner's Implementation Advisory Council, referred to in
30 this section as the council, is created within the Department of Substance Abuse Services.

31 **2. Membership.** The council consists of 10 members:

32 A. Five members representing the provider community, including at least one
33 licensed alcohol and drug counselor, one representative of a licensed treatment
34 center and one representative of a prevention program;

35 B. Two members of the public;

36 C. One educator; and

1 D. Two members representing consumers of services.
2 The Commissioner of Substance Abuse Services serves as a nonvoting, ex-officio
3 member of the council, except the commissioner may vote to break a tie.

4 The Governor shall appoint members of the council. The Governor shall select the 5
5 provider community members after consultation and advice from the Maine Association
6 of Substance Abuse Programs, or its successor organization.

7 An employee of the department may not serve as a member of the council prior to the
8 expiration of one year from that employee's last day of employment with the department.

9 **3. Term; sunset.** Appointments are for a single term of 2 years and until successors
10 are appointed and qualified. The council dissolves 24 months after its creation. On the
11 death, resignation or removal from office of any person appointed to the council, the
12 Governor shall appoint a member to serve for the unexpired term.

13 **4. Expenses.** The members of the council are entitled to compensation in the form of
14 expenses for attendance at meetings of the implementation phase.

15 **5. Duties.** The council shall render to the commissioner information and advice
16 concerning the transition of duties and responsibilities to the department, implementation
17 of the Maine Revised Statutes, Title 22-B, creation of the department and the
18 organization structure and division of responsibilities within the department.

19 **6. Meetings.** The council shall meet at least quarterly with the commissioner and may
20 meet more often as the council may elect after the first meeting. All regular and special
21 meetings of the council must be public meetings and must be held in a public meeting
22 place convenient for the public. Public comment must be accepted at regular and special
23 meetings of the council. Comments may be restricted to subjects before the council at the
24 meeting and consistent with any applicable requirements and limitations of the Maine
25 Administrative Procedure Act. Public notice of all regular and special council meetings
26 must be published in a daily newspaper of general circulation in the geographic area
27 where the meeting is scheduled at least 7 days and not more than 21 days prior to the
28 meeting. That notice must include an agenda or statement of purpose of the meeting. That
29 notice may be combined with any other notice of the meeting required by law.

30 **7. Officers.** At the first meeting of the council, the members may elect one member
31 as chair and one member as vice-chair.

32 **Sec. B-2. Transition.** Notwithstanding the Maine Revised Statutes, Title 22, Title
33 22-A and Title 34-B, the following provisions apply to the reassignment of the duties and
34 responsibilities of the Department of Health and Human Services and the former
35 Department of Human Services and the former Department of Behavioral and
36 Developmental Services to the Department of Substance Abuse Services.

37 1. All functions of the Department of Health and Human Services as they pertain to
38 the duties of the Department of Substance Abuse Services as set forth in this Act are
39 incorporated into the Department of Substance Abuse Services. All references to,
40 responsibilities of and authority conferred upon the Department of Health and Human
41 Services and the former Department of Human Services and the former Department of

1 Behavioral and Developmental Services, and those departments' predecessors, throughout
2 the Maine Revised Statutes as they pertain to the duties of the Department of Substance
3 Abuse Services as set forth in this Act are deemed to refer to and vest in the Department
4 of Substance Abuse Services created by this Act. The Department of Substance Abuse
5 Services is the successor in every way to the powers, duties and functions as assigned in
6 Title 22-A to the Department of Health and Human Services, as they pertain to services
7 provided to adults, children and families under this Act.

8 2. All functions and duties set forth in Title 5, chapter 521 are specifically assigned to
9 the Department of Substance Abuse Services.

10 3. The Department of Substance Abuse Services is the successor to the Department of
11 Professional and Financial Regulation in every way relating to the function, operation and
12 duties of the State Board of Alcohol and Drug Counselors.

13 4. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued
14 expenditures, assets, liabilities, balances of appropriations, allocations, transfers, revenues
15 or other available funds in an account or subdivision of an account of the Department of
16 Health and Human Services or of the Department of Professional and Financial
17 Regulation that pertain to the duties of the Department of Substance Abuse Services as
18 set forth in this Act must be transferred to the proper accounts of the Department of
19 Substance Abuse Services by the State Controller or by financial order upon the request
20 of the State Budget Officer and with the approval of the Governor.

21 5. All rules of the Department of Health and Human Services and the State Board of
22 Alcohol and Drug Counselors and of the former Department of Human Services and the
23 former Department of Behavioral and Developmental Services, as they pertain to the
24 duties of the Department of Substance Abuse Services as set forth in this Act, that are in
25 effect on the effective date of this Act remain in effect until rescinded, revised or
26 amended.

27 6. All contracts, agreements and compacts of the Department of Health and Human
28 Services and of the former Department of Human Services and the former Department of
29 Behavioral and Developmental Services, as they pertain to the duties set forth in this Act,
30 that are in effect on the effective date of this Act remain in effect until they expire or are
31 altered by the parties involved in the contracts, agreements or compacts. The Department
32 of Substance Abuse Services is the successor agency for all federal block grants and
33 programs administered under the United States Social Security Act, as amended, and any
34 other federal programs, grants and contracts, as they pertain to the duties of the
35 Department of Substance Abuse Services as set forth in this Act.

36 7. All records of the Department of Health and Human Services and any previous
37 records of the former Department of Human Services and the former Department of
38 Behavioral and Developmental Services, as they pertain to the duties set forth in this Act,
39 must be transferred to the Department of Substance Abuse Services as necessary to
40 implement this Act.

1 8. All property and equipment of any bureau, division or program of the Department
2 of Health and Human Services pertaining to the duties set forth in this Act are transferred
3 to the Department of Substance Abuse Services as necessary to implement this Act.

4 9. Employees of the Department of Substance Abuse Services who were employees
5 of the Department of Health and Human Services or the Department of Professional and
6 Financial Regulation immediately prior to the effective date of this Act retain all their
7 employee rights, privileges and benefits, including sick leave, vacation and seniority,
8 provided under the Civil Service Law or collective bargaining agreements. The
9 Department of Administrative and Financial Services, Bureau of Human Resources shall
10 provide assistance to the affected departments and shall assist with the orderly
11 implementation of this subsection.

12 10. The Commissioner of Substance Abuse Services in cooperation with the
13 Commissioner of Health and Human Services, Commissioner of Professional and
14 Financial Regulation and Commissioner of Administrative and Financial Services shall
15 investigate cost savings and efficiencies from consolidation or delegation of certain
16 administrative functions among state departments and may enter into agreements for the
17 consolidation or delegation and provision of some or all of the following administrative
18 functions:

- 19 A. Internal auditing;
- 20 B. External auditing;
- 21 C. Financial management;
- 22 D. Human resources;
- 23 E. Information technology, data collection and data management;
- 24 F. Facilities management;
- 25 G. Contracting;
- 26 H. Licensing;
- 27 I. Training; and
- 28 J. Administrative appeals.

29 The Commissioner of Substance Abuse Services may not consolidate or delegate such
30 functions if that delegation results in increased administrative costs. Beginning January 1,
31 2009 the commissioner shall provide the joint standing committees of the Legislature
32 having jurisdiction over health and human services matters and state and local
33 government matters with an annual report that summarizes any such cooperative
34 agreements.

35 11. By January 1, 2009, the Commissioner of Substance Abuse Services shall submit
36 a report, including recommendations and any necessary legislation, to the Governor and
37 the joint standing committee of the Legislature having jurisdiction over health and human
38 services matters regarding the establishment and implementation of the Department of
39 Substance Abuse Services. In developing the report, the commissioner shall consult with
40 the Provider Partnership Advisory Council and the Commissioner's Implementation

1 Advisory Council. The commissioner's report must include recommendations on the
2 following issues:

3 A. Bureau structure, including the number, title and functions of bureaus and
4 divisions within bureaus. In the development of recommendations regarding the
5 bureau structure, the commissioner shall consider the unique needs of special
6 populations, including but not limited to children;

7 B. Administrative structure and functions, including:

8 (1) Planning and quality assurance;

9 (2) Staff training and professional development;

10 (3) Regional structure and administrative functions; and

11 (4) The employment status of division directors;

12 C. Program and service delivery functions; and

13 D. The need for additional advisory boards and opportunities to ensure that all
14 advisory bodies to the new department operate efficiently and effectively.

15 Following receipt and review of the report, the joint standing committee of the
16 Legislature having jurisdiction over health and human services matters may submit
17 legislation to the First Regular Session of the 124th Legislature.

18 12. The Commissioner of Substance Abuse Services shall work with the
19 Commissioner of Education and the Commissioner of Corrections to review the delivery
20 of juvenile substance abuse services and educational programs. By January 1, 2009, the
21 Commissioner of Substance Abuse Services shall submit a report including
22 recommendations and any necessary legislation to the Governor and the joint standing
23 committee of the Legislature having jurisdiction over health and human services matters.
24 Following receipt and review of the report, the committee may submit legislation to the
25 First Regular Session of the 124th Legislature.

26 **Sec. B-3. Conflicts and inconsistencies.** If the Commissioner of Substance
27 Abuse Services finds a conflict or inconsistency between provisions in the Maine Revised
28 Statutes, Title 22, Title 22-A, Title 22-B, Title 32 and Title 34-B and rules adopted under
29 those titles, the commissioner shall attempt to resolve that conflict or inconsistency by
30 interpreting the laws or rules together to give effect to the intent of the Legislature or
31 agency, as the case may be. If the commissioner determines rulemaking is required to
32 resolve a conflict or inconsistency, the commissioner may adopt rules to resolve such
33 conflict or inconsistency. In adopting rules under this section, the commissioner has sole
34 discretion to determine whether an emergency exists. The commissioner shall notify the
35 members of the joint standing committee of the Legislature having jurisdiction over
36 health and human services matters prior to adopting any emergency rule under this
37 section.

38 **Sec. B-4. Legislation; schedule.** The Commissioner of Substance Abuse Services
39 shall work with the joint standing committee of the Legislature having jurisdiction over
40 health and human services matters and staff from the Office of Policy and Legal Analysis
41 and the Office of the Revisor of Statutes to review those parts of the Maine Revised

1 Statutes governing the Department of Substance Abuse Services, including but not
2 limited to Title 22, Title 22-A, Title 22-B, Title 32 and Title 34-B. The purpose of the
3 review is to develop legislation to consolidate existing law into Title 22-B, to update Title
4 22-B and to correct any errors and inconsistencies in law that result from this Act. By
5 November 30, 2009 the commissioner and the committee shall agree on the format and
6 organization of Title 22-B. By November 30, 2010 the commissioner shall submit the
7 legislation developed pursuant to this section to the ~~Second~~ Regular Session of the 124th
8 Legislature.

9 **Sec. B-5. Interim meetings; authorized.** The joint standing committee of the
10 Legislature having jurisdiction over health and human services matters is authorized to
11 meet as needed, but at least 3 times, during the 2008 legislative interim to carry out its
12 responsibilities to oversee planning, service delivery and implementation issues related to
13 the establishment of the Department of Substance Abuse Services. At these meetings, the
14 Commissioner of Substance Abuse Services shall brief the committee on planning issues,
15 progress, challenges and the timeline for implementation. The committee shall provide
16 opportunities for consumers, providers and advocates to speak to the committee. The
17 committee may submit legislation to the Second Regular Session of the 124th Legislature
18 based on these meetings.

19 **Sec. B-6. Working groups.** From July 2008 through December 2009, the
20 Commissioner of Substance Abuse Services shall convene advisory working groups to
21 consider planning, service delivery and implementation issues related to the
22 establishment of the Department of Substance Abuse Services. The working groups shall
23 review the issues identified in section 1, subsection 11. The working groups must include
24 broad representation from consumers, providers and members of the public.

25 **Sec. B-7. Budget.** The Department of Administrative and Financial Services,
26 Bureau of the Budget shall work with the employees of the Department of Health and
27 Human Services with regard to the duties transferred to the Department of Substance
28 Abuse Services as set forth in this Act to develop the budget for the Department of
29 Substance Abuse Services.

30 **Sec. B-8. Federal approval.** If the Commissioner of Substance Abuse Services
31 determines that federal approval will not be obtained for any part of this Act that requires
32 federal approval, the commissioner shall notify the joint standing committee of the
33 Legislature having jurisdiction over health and human services matters, the joint standing
34 committee of the Legislature having jurisdiction over appropriations and financial affairs
35 and the Executive Director of the Legislative Council.

36 **Sec. B-9. Maine Revised Statutes amended; revision clause.** Wherever in the
37 Maine Revised Statutes the words "Department of Health and Human Services,"
38 "Department of Human Services," "Department of Behavioral and Developmental
39 Services," "Department of Professional and Financial Regulation" or "Office of
40 Substance Abuse" appear or reference is made to one of those entities or those words with
41 reference to the duties transferred to the Department of Substance Abuse Services as set
42 forth in this Act, those entities or words are amended to read or mean, as appropriate,

1 "Department of Substance Abuse Services," and the Revisor of Statutes shall implement
2 this revision when updating, publishing or republishing the statutes.

3 **PART C**

4 **Sec. C-1. 2 MRSA §6, sub-§1**, as repealed and replaced by PL 2005, c. 397, Pt.
5 A, §1, is amended to read:

6 **1. Range 91.** The salaries of the following state officials and employees are within
7 salary range 91:

- 8 Commissioner of Transportation;
- 9 Commissioner of Conservation;
- 10 Commissioner of Administrative and Financial Services;
- 11 Commissioner of Education;
- 12 Commissioner of Environmental Protection;
- 13 Executive Director of Dirigo Health;
- 14 Commissioner of Public Safety;
- 15 Commissioner of Professional and Financial Regulation;
- 16 Commissioner of Labor;
- 17 Commissioner of Agriculture, Food and Rural Resources;
- 18 Commissioner of Inland Fisheries and Wildlife;
- 19 Commissioner of Marine Resources;
- 20 Commissioner of Corrections;
- 21 Commissioner of Economic and Community Development;
- 22 Commissioner of Defense, Veterans and Emergency Management; ~~and~~
- 23 Executive Director, Workers' Compensation Board; and
- 24 Commissioner of Substance Abuse Services.

25 **Sec. C-2. 2 MRSA §6, sub-§2**, as amended by PL 2007, c. 273, Pt. B, §1, is
26 further amended to read:

27 **2. Range 90.** The salaries of the following state officials and employees are within
28 salary range 90:

- 29 Superintendent of Financial Institutions;
- 30 Superintendent of Consumer Credit Protection;
- 31 State Tax Assessor;
- 32 Superintendent of Insurance;
- 33 Executive Director of the Maine Consumer Choice Health Plan;

1 Deputy Commissioner, Department of Administrative and Financial Services;
2 Associate Commissioner for Adult Services, Department of Corrections;
3 Associate Commissioner for Juvenile Services, Department of Corrections;
4 Public Advocate;
5 Deputy Commissioner of Integrated Services, Department of Health and Human
6 Services;
7 Deputy Commissioner of Health, Integrated Access and Strategy, Department of
8 Health and Human Services;
9 Chief Information Officer;
10 Associate Commissioner for Legislative and Program Services, Department of
11 Corrections; and
12 Chief of the State Police.;
13 Deputy Commissioner of Substance Abuse Services; and
14 Associate Commissioner of Substance Abuse Services.

15 **Sec. C-3. 5 MRSA §946-B** is enacted to read:

16 **§946-B. Department of Substance Abuse Services**

17 **1. Major policy-influencing positions.** The following positions are major policy-
18 influencing positions within the Department of Substance Abuse Services.
19 Notwithstanding any other provision of law, these positions and their successor positions
20 are subject to this chapter:

- 21 A. Deputy commissioners;
- 22 B. Associate commissioners;
- 23 C. Bureau directors and division directors;
- 24 D. Regional directors; and
- 25 E. Director of legal affairs.

26 **PART D**

27 **Sec. D-1. 32 MRSA §6201**, as amended by PL 1995, c. 394, §2, is further
28 amended to read:

29 **§6201. State Board of Alcohol and Drug Counselors**

30 The State Board of Alcohol and Drug Counselors within the Department of
31 ~~Professional and Financial Regulation~~ Substance Abuse Services as established by Title
32 5, section 12004-A, subsection 41; shall carry out the purposes of this chapter.

33 **Sec. D-2. 32 MRSA §6208-A, sub-§1**, as amended by PL 2007, c. 402, Pt. U, §5,
34 is further amended to read:

1 **1. Membership.** The State Board of Alcohol and Drug Counselors, as established
2 by Title 5, section 12004-A, subsection 41, consists of 9 members. Seven members are
3 appointed by the Governor. One member must be the ~~Director of the Office of Substance~~
4 ~~Abuse or a~~ Commissioner of Substance Abuse Services or the commissioner's designee.
5 One member, appointed by the Chancellor of the University of Maine System, must be a
6 member of the university faculty involved in the training of substance abuse or alcohol
7 and drug counselors. Of these 9 members, 5 members must be licensed alcohol and drug
8 counselors and 2 members must be public members as defined in Title 5, section 12004-
9 A.

10 **Sec. D-3. 32 MRSA §6212, sub-§2,** as amended by PL 2007, c. 402, Pt. U, §7, is
11 further amended to read:

12 **2. Adopt criteria.** The board, in cooperation with the ~~Office~~ Department of
13 Substance Abuse Services, may design, adopt or design and adopt an examination or
14 other suitable criteria for establishing a candidate's knowledge, skill and experience in
15 alcohol and drug counseling. Any criteria adopted by the board for establishing a
16 candidate's knowledge, skill and experience in alcohol and drug counseling must be
17 clearly defined, have an established baseline scoring procedure that is objectively
18 measured, be in writing and be available to the public upon request.

19 **Sec. D-4. 32 MRSA §6215,** as amended by PL 2007, c. 402, Pt. U, §9, is further
20 amended to read:

21 **§6215. Application; fees**

22 The ~~Director of the Office of Licensing and Registration within the Department of~~
23 ~~Professional and Financial Regulation~~ Commissioner of Substance Abuse Services may
24 establish by rule fees for purposes authorized under this subchapter in amounts that are
25 reasonable and necessary for their respective purposes, except that the fee for any one
26 purpose may not exceed \$200 annually. Rules adopted pursuant to this section are
27 routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

28 **Sec. D-5. 32 MRSA §6219, first ¶,** as amended by PL 2007, c. 402, Pt. U, §13, is
29 further amended to read:

30 All licenses issued pursuant to this chapter expire annually on November 30th or at
31 such other time as the Commissioner of ~~Professional and Financial Regulation~~ Substance
32 Abuse Services may designate. Licensees must renew their licenses on or before
33 November 30th annually or on such other date as determined by the commissioner by
34 filing an application, completing any continuing education requirements established by
35 board rule and paying the renewal fee as set under section 6215.

36 **Sec. D-6. Revisor's review; cross-references.** The Revisor of Statutes shall
37 review the Maine Revised Statutes and include in the errors and inconsistencies bill
38 submitted to the Second Regular Session of the 124th Legislature pursuant to the Maine
39 Revised Statutes, Title 1, section 94 any sections necessary to correct and update any
40 cross-references in the statutes to provisions of law repealed in this Act.

1 **SUMMARY**

2 This bill makes the Office of Substance Abuse into the Department of Substance
3 Abuse Services, a cabinet-level agency, in order to address the substance abuse problem
4 in this State. This department would address the cost of substance abuse in this State and
5 the effects of substance abuse on health care costs, workers' compensation, economic
6 development and the reputation of the Maine workforce. This bill would allow the State
7 to coordinate statewide substance abuse and addiction policies at a high level.

8 Part A of the bill enacts a new Title 22-B in the Maine Revised Statutes to establish
9 the Department of Substance Abuse Services. Part A also amends or repeals existing law
10 to avoid some potential conflicts or ambiguity.

11 Part B provides a series of transition provisions to ensure the appropriate and orderly
12 transfer of functions, duties and responsibilities to the new department.

13 Part C places the State Board of Alcohol and Drug Counselors under the jurisdiction
14 of the new Department of Substance Abuse Services instead of the Department of
15 Professional and Financial Regulation.