

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 64

S.P. 419 - L.D. 1288

Resolve, To Increase Public Access to the Prior Authorization Process

Sec. 1. MaineCare procedures. Resolved:

That the Department of Human Services shall review the procedures applicable to the MaineCare program regarding the Bureau of Medical Services' drug utilization review committee by November 1, 2003. The department shall take steps to advertise more broadly meetings of the drug utilization review committee, including use of legislative notice procedures and direct notice to the Maine Medical Association. The department shall open to the public for observation those portions of the meetings that do not involve confidential or protected information, including, to the extent possible, the process of decision making. By December 1, 2003, the department shall report to the Joint Standing Committee on Health and Human Services and shall provide information on changes in MaineCare procedures for the drug utilization review committee.

See title page for effective date.

CHAPTER 65

H.P. 1141 - L.D. 1558

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

Preamble. The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House.

Whereas, the real estate authorized for conveyance by this resolve is under the designations described in the Maine Revised Statutes, Title 12, section 598-A; and

Whereas, the Director of the Bureau of Parks and Lands within the Department of Conservation may sell or exchange lands with the approval of the Legislature in accordance with the Maine Revised Statutes, Title 12, sections 1837 and 1851; now, therefore, be it

Sec. 1. Director of Bureau of Parks and Lands authorized to sell or convey certain real estate. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed convey, for fair market

value as established by an independent appraiser, the following properties on such terms and conditions as the director may direct to SP Forests, L.L.C.:

A. The State's 1/6 common and undivided interest in T1, R4 WELS, in Aroostook County, which is approximately 92 acres;

B. All of the State's fee interest in the Public Lot North, so-called Passadumkeag Mountain North parcel, located in Grand Falls Township, Penobscot County, which is approximately 640 acres; and

C. All of the State's fee interest in the Public Lot South, so-called Passadumkeag Mountain South parcel, located in Grand Falls Township, Penobscot County, which is approximately 362 acres.

See title page for effective date.

CHAPTER 66

H.P. 1153 - L.D. 1580

Resolve, Regarding Legislative Review of Chapter 113: Rules and Regulations Governing the Licensing and Functioning of Assisted Housing Programs, a Major Substantive Rule of the Department of Human Services, Bureau of Elder and Adult Services

Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Adoption. Resolved: That final adoption of Chapter 113: Rules and Regulations Governing the Licensing and Functioning of Assisted Housing Programs, a provisionally adopted major substantive rule of the Department of Human Services, Bureau of Elder and Adult Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized provided the following changes are made in the rules for assisted living programs and residential care.

1. Rule 2.7, defining "applicant" for the rules for assisted living programs and the corresponding rules for residential care, must be changed to require that the lease agreement, contract or other agreement delineate the roles and duties under these rules.

2. Rule 2.8.2, defining "assisted living program" for the rules for assisted living programs and the corresponding rules for residential care, must be changed to specify the 2 levels of nursing services: services of a registered professional nurse; and registered professional nurse coordination and oversight.

3. Rule 2.12, defining "consumer" for assisted living programs only, must be adopted using the proposed definition of "resident" and the rules must be renumbered to run sequentially.

4. Rule 2.44, defining "resident" for assisted living programs only, must be changed to remove "or tenant."

5. Rule 3.4.4, on application and licensure, for assisted living programs and the corresponding rules for residential care must be changed to provide that the policy on admission and scope of services must describe the scope of nursing services.

6. Rule 3.22, on actions requiring prior written approval, must be changed to require prior approval only for common dining rooms and public bathrooms.

7. Rule 3.25.2, on signing a contract, for assisted living programs and the corresponding rules for residential care must be changed to delete all reference to the standard contract.

8. Rule 3.25.3, on provisions of contract, for assisted living programs and the corresponding rules for residential care must be changed to delete all reference to the standard contract.

9. Rule 5.12, on the right to confidentiality, for assisted living programs and the corresponding rules for residential care must be changed to allow access to confidential consumer information as authorized by any other applicable state or federal law and to require

the release form to comply with the requirements of rule and law.

10. Rule 5.20, on the right to refuse treatment or services, for assisted living programs and the corresponding rules for residential care must be changed to delete reference to ensuring that a consumer receives necessary services and to include instead reference to encouraging the consumer to receive necessary services.

11. Rule 5.26, on reasonable modifications and accommodations, for assisted living programs and the corresponding rules for residential care must be changed to provide that the responsibility for reasonable modification and accommodation applies to the licensee, who may permit modification directly or through an agreement with the property owner.

12. Rule 5.28, on the right to appeal an involuntary transfer or discharge, for assisted living programs and the corresponding rules for residential care must be changed to allow appeal of a transfer or discharge for reasons of nonpayment and to provide an expedited appeal.

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective June 4, 2003.

CHAPTER 67

H.P. 1161 - L.D. 1588

Resolve, Regarding Legislative Review of Portions of the MaineCare Benefits Manual, Chapter 11 and Chapter 111, Section 40, Home Health Services, a Major Substantive Rule of the Department of Human Services, Bureau of Medical Services

Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and