

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

**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.

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## 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

**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 Portions of the MaineCare Benefits Manual, Chapter 11 and Chapter 111, Section 40: Home Health Services, a provisionally adopted major substantive rule of the Department of Human Services, Bureau of Medical 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.

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

Effective June 4, 2003.

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**CHAPTER 68**

**H.P. 936 - L.D. 1264**

**Resolve, Regarding Notice of Deficient Care in Long-term Care Settings**

**Sec. 1. Notice of deficient care in long-term care settings. Resolved:** That the Department of Human Services, Bureau of Medical Services, Division of Licensing shall work together with interested parties, providers of long-term care services in home settings and in facilities and advocates for persons with disabilities, the elderly and consumers of long-term care services to review information that is available to the public on deficient care in long-term care settings. This working group shall review information available through the federal Centers for Medicare and Medicaid Services and the State of Maine on deficient care in long-term care settings and shall provide a report and make recommendations regarding increased access to public information regarding deficiencies in long-term care settings to the Joint Standing Committee on Health and Human Services no later than February 1, 2004.

See title page for effective date.

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**CHAPTER 69**

**H.P. 999 - L.D. 1364**

**Resolve, Regarding Opportunities To Decrease the Occurrence of Developmental Disabilities and Mental Health Challenges in Childhood**

**Sec. 1. Report. Resolved:** That the Maine Developmental Disabilities Council may submit a report and recommendations to the Joint Standing Committee on Health and Human Services regarding the results of its work to identify opportunities to decrease the occurrence of developmental disabilities and mental health challenges in childhood. Following receipt and review of the report, the Joint Standing Committee on Health and Human Services may report out legislation based on the report and recommendations to the Second Regular Session of the 121st Legislature.

See title page for effective date.

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**CHAPTER 70**

**S.P. 262 - L.D. 767**

**Resolve, Directing the Department of Human Services To Enact Rules To Reduce the Health Risks Associated with Latex Gloves**

**Sec. 1. Rules. Resolved:** That the Department of Human Services, Bureau of Health shall adopt rules requiring the development of protocols regarding the use of latex gloves in the following environments: hospitals, offices of health care providers, health facilities, nursing facilities and home health agencies. The rules must direct persons responsible for the applicable entities to develop protocols after considering the health and safety of employees and the general public and the particular environment to which the protocols will apply. By January 30, 2004 the Bureau of Health shall report back to the Joint Standing Committee on Health and Human Services regarding the rules, the development of protocols, the anticipated impact of the protocols and whether legislation is required to further address allergies to latex gloves. Rules adopted pursuant to this resolve are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A; and be it further

**Sec. 2. Report. Resolved:** That the Department of Labor shall study the development of protocols regarding the use of latex gloves in commercial establishments, industrial facilities and state agencies and shall report to the Joint Standing