

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

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 Chapter 750: Standardized Health Plans, a provisionally adopted major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance 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 May 25, 2005.

CHAPTER 52

H.P. 284 - L.D. 382

Resolve, To Require the Department of Health and Human Services To Amend Rules Regarding Licensing of Intermediate Care Facilities for Mental Retardation

Sec. 1. Adopt rules. Resolved: That the Department of Health and Human Services shall amend the rules pertaining to the licensing of intermediate care facilities for mental retardation to allow for the elimination of state licensing requirements that are duplicative or no longer essential. The department shall consult with consumer and provider representatives prior to proposing the amended rules. Rules adopted pursuant to this resolve are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and must be provisionally adopted and submitted to the Joint Standing Committee on Health and Human Services for review no later than January 3, 2006.

See title page for effective date.

CHAPTER 53

S.P. 456 - L.D. 1329

Resolve, Directing the Workers' Compensation Board To Consider Adoption of the "Guides to the Evaluation of Permanent Impairment," 5th Edition, in Assessing Workers' Compensation Injuries

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

Whereas, adoption of the 5th edition of the "Guides to the Evaluation of Permanent Impairment" could have considerable significance to injured workers, employers and insurers in determining workers' compensation benefits and should be considered as soon as possible; 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. Workers' Compensation Board directed to consider adoption of 5th edition of "Guides to the Evaluation of Permanent Impairment." Resolved: That the Workers' Compensation Board shall consider adoption of the 5th edition of "Guides to the Evaluation of Permanent Impairment" as impairment guidelines pursuant to the Maine Revised Statutes, Title 39-A, section 153, subsection 8; and be it further

Sec. 2. Reporting date established. Resolved: That the Workers' Compensation Board shall report its findings to the Joint Standing Committee on Labor by January 15, 2006, including the board's determination of whether the 5th edition of "Guides to the Evaluation of Permanent Impairment" should be adopted and, if so, whether the 5th edition has been adopted by board rule; and be it further

Sec. 3. Authority of Joint Standing Committee on Labor to report out legislation. Resolved: That, following receipt and review of the Workers' Compensation Board's report under section 2, the Joint Standing Committee on Labor may report out legislation related to the report to the Second Regular Session of the 122nd Legislature.

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

Effective May 26, 2005.

CHAPTER 54

S.P. 212 - L.D. 676

Resolve, Regarding the No Child Left Behind Act of 2001

Sec. 1. Suit against Federal Government.

Resolved: That the Attorney General shall determine, based on appropriate and substantial data collected by the Department of Education, whether an increase in federal funding is necessary to fully implement in this State the federal No Child Left Behind Act of 2001 or whether there is a basis for relief from the requirements of the Act for which costs are not covered by the federal funding received. If, based on the review, the Attorney General determines that the federal funding is insufficient or there is a basis for relief, the Attorney General is authorized to bring an action on behalf of the State and the school administrative units within the State against the Federal Government and appropriate parties.

See title page for effective date.

CHAPTER 55

S.P. 171 - L.D. 545

Resolve, To Improve Procedures for Assessing the Mental Health Services Needs of Older Individuals

Sec. 1. Recommend procedure to assess mental health needs of older persons; data collection. Resolved: That the Department of Health and Human Services shall recommend a procedure for the timely assessment of an older individual's need for mental health services. The recommendations must include an efficient, cost-effective data collection process to identify consumer needs for mental health services for older persons, regardless of the setting. Recommendations developed under this section must be undertaken in consultation with the work group convened in section 2 and must be included in the report required under section 3; and be it further

Sec. 2. Work group. Resolved: That the Department of Health and Human Services and the Joint Advisory Committee on Select Services for Older Persons shall, in consultation with other

consumers, providers and advocates, form a work group and shall:

1. Review and make recommendations on a mental health assessment screen as part of the needs assessment of applicants for long-term care services;

2. In consultation with the State Board of Nursing and the Department of Education, review training curricula for direct care workers in all long-term care settings and recommend revisions to the curricula necessary to include a stronger focus on the identification of and management of behavioral disorders in the long-term care population. In conducting that review, the Department of Health and Human Services and the work group shall consider the creation of a specialized behavioral health certification for certified nursing assistants; and

3. Review and make recommendations concerning other information regarding the needs of persons over 60 years of age, including, but not limited to, a review of the following:

A. Information regarding minimum data set data on the use of psychotropics in all long-term care facilities;

B. The number of hospitalizations due to psychiatric or behavioral episodes, including the referral setting;

C. The number of adult protective service intakes related to mental health and behavioral issues and their outcomes;

D. The number and type of consultations performed by Department of Health and Human Services behavioral consultants, including trends, characteristics and outcomes;

E. Mental health services provided through MaineCare by diagnosis for persons over 60 years of age;

F. The number of consent decree clients with dementia and the number of persons with mental retardation and developmental disabilities over 60 years of age; and

G. Information regarding spending for geriatric mental health services; and be it further

Sec. 3. Report. Resolved: That the Department of Health and Human Services and the Joint Advisory Committee on Select Services for Older Persons shall jointly submit a report on the issues identified in sections 1 and 2, including recommendations and suggested legislation, to the Joint Standing