

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**

**July 29, 2005**

**SECOND REGULAR SESSION**

**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND SPECIAL SESSION**

**NON-EMERGENCY LAWS IS**

**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND REGULAR SESSION**

**NON-EMERGENCY LAWS IS**

**AUGUST 23, 2006**

**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**

**2006**

Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if:

**1. Preliminary investigation.** In section 7(B)(1) a new provision is added to provide the following:

A. That the commission staff shall engage in a preliminary investigation regarding any potential violation of the Dig Safe Law or rules;

B. That the preliminary investigation must include a good faith effort to contact the potential violator and afford that person an opportunity to discuss the matter prior to the issuance of a notice of probable violation; and

C. That nothing in the new provision precludes the issuance of a notice of probable violation if a person cannot be located with reasonable effort or fails to respond to a communication from the staff;

**2. Informal review.** In section 7(B)(2)(a) it is clarified that the informal review consists of an informal conference or an analysis of the respondent's written reply;

**3. Recommended decision.** In section 7(B)(3)(a) it is provided that, following the informal conference or the waiver of the informal conference, the commission staff member shall issue in writing a recommended decision indicating whether or not the respondent has violated the Dig Safe Law or the rules and the basis for that conclusion, and the recommended disposition; and

**4. Technical changes.** Any technical changes to the rule necessary to accomplish the changes described in this resolve are made.

The commission is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

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

Effective April 12, 2006.

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## CHAPTER 185

S.P. 701 - L.D. 1784

### Resolve, To Clarify Contingency Allowance under the Certificate of Need Law

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

**Whereas,** capital projects that are already under construction will be affected by this legislation; 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. Maximum expenditure and contingency allowance. Resolved:** That the Department of Health and Human Services shall revise or adopt rules as needed to provide for a contingency allowance for the project budget of 5% to 8% depending on the type of project, as defined in the rules, in issuing a certificate of need under the Maine Revised Statutes, Title 22, chapter 103-A. A single contingency allowance must be provided for in all projects and the allowance may not be subject to an additional cap other than the applicable percentage. The department shall repeal the current cap of \$1,000,000; and be it further

**Sec. 2. Rules. Resolved:** That rules adopted pursuant to section 1 are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

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

Effective April 13, 2006.

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## CHAPTER 186

H.P. 1208 - L.D. 1701

### Resolve, To Ensure Coordination and Effectiveness in the Provision of Services under the MaineCare Noncategorical Waiver

**Sec. 1. Development of processes. Resolved:** That the Department of Health and Human Services shall ensure the coordination and effective provision of MaineCare services provided to noncategorical members eligible for benefits under the Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraph F, referred to in this section as "noncategorical members," by:

1. Implementing a process for tracking the number of mental health treatment sessions provided to

noncategorical members for purposes of appropriate clinical planning;

2. Establishing and implementing prior authorization processes to aid in ensuring that a noncategorical member's remaining service availability is not exhausted within any given calendar year;

3. Creating criteria for necessary clinical justification for exceeding the calendar year limit of outpatient services. The department may increase the maximum number of visits for outpatient mental health services, excluding visits for medication management, to 24 visits in a 12-month period as long as any cost associated with this increase is offset by savings from managing the utilization of this service by methods that may include prior authorization;

4. Developing systems to enable providers to identify the eligibility category of noncategorical members, the members' enrollment dates and the members' recertification dates;

5. Developing systems for transition planning for noncategorical members who leave or become ineligible for the MaineCare program; and

6. Providing a priority reinstatement process for certain noncategorical members who have good cause for failing to recertify their eligibility or placement on the waiting list in a timely manner.

The department may adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, as needed to implement this section.

See title page for effective date.

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**CHAPTER 187**

**H.P. 1338 - L.D. 1897**

**Resolve, To Direct the Public Utilities Commission To Examine Continued Participation by Transmission and Distribution Utilities in This State in the New England Regional Transmission Organization**

**Sec. 1. Public Utilities Commission to examine continued participation by transmission and distribution utilities in New England regional transmission organization. Resolved:** That the Public Utilities Commission shall undertake an inquiry to determine the legal options for and costs and benefits of directing or otherwise causing transmission and distribution utilities in this State to withdraw from the New England regional transmission organization. The Public Utilities Commission must examine other reasonable options for providing for the

functions currently provided by the New England regional transmission organization. The commission may, as the commission determines appropriate, explore any options involving Canadian governments, agencies or other authorities. The commission also may, as the commission determines appropriate, explore any options involving other states, governments or agencies within the United States. The commission shall conduct the inquiry in accordance with commission rules governing inquiries, except that the sole purpose of the inquiry is to produce findings and recommendations for consideration by the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The Legislature retains final authority to make policy decisions on the subject matter of this resolve based on any recommendations of the joint standing committee of the Legislature having jurisdiction over utilities and energy matters; and be it further

**Sec. 2. Reports. Resolved:** That the Public Utilities Commission shall issue an interim report on the status of its inquiry pursuant to section 1 and any preliminary findings and recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 1, 2007. The joint standing committee may request additional interim reports from the commission as the joint standing committee determines appropriate. The commission shall issue a final report of its findings and recommendations to the joint standing committee by January 1, 2008.

The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation on the subject matter of this resolve to the First Regular Session or the Second Regular Session of the 123rd Legislature; and be it further

**Sec. 3. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**PUBLIC UTILITIES COMMISSION**

**Public Utilities - Administrative Division 0184**

Initiative: Allocates funds for one limited-period Utility Analyst position, required contractual services and general operating expenses to carry out the purposes of this Act. This limited-period position will end no later than January 2, 2008.

**OTHER SPECIAL REVENUE**

FUNDS	2005-06	2006-07
Personal Services	\$0	\$94,070
All Other	\$0	\$123,394
OTHER SPECIAL REVENUE	-----	-----
FUNDS TOTAL	\$0	\$217,464

See title page for effective date.

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