

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

**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**  
**2007**

school and after-school programs for school-age children, with particular attention to the differences in custodial and noncustodial programs, and make recommendations on how these might be standardized in the best interest of all children served, how these might be adjusted to best meet the broad range of the needs of children and families and how to encourage community collaboration to maximize all community resources for integration of the programs within existing support systems for children and families; and be it further

**Sec. 3. Report. Resolved:** That the working group shall provide a report to the Joint Standing Committee on Health and Human Services with findings and recommendations for changes in rules, standards and policies no later than March 1, 2008. The joint standing committee is authorized to introduce legislation to the Second Regular Session of the 123rd Legislature.

See title page for effective date.

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## CHAPTER 42

H.P. 1234 - L.D. 1768

**Resolve, Regarding Legislative Review of Portions of Chapter 252: Rules Governing Certification of Seed Potatoes in the State of Maine and Chapter 255: Imported Seed Potatoes, Major Substantive Rules of the Department of Agriculture, Food and Rural Resources**

**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 rules have 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 rules; 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 preserva-

tion of the public peace, health and safety; now, therefore, be it

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 252: Rules Governing Certification of Seed Potatoes in the State of Maine and Chapter 255: Imported Seed Potatoes, provisionally adopted major substantive rules of the Department of Agriculture, Food and Rural Resources that have 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 legislation takes effect when approved.

Effective May 29, 2007.

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## CHAPTER 43

H.P. 1278 - L.D. 1831

**Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Educational Personnel Part I and II, Requirements for Specific Certificates and Endorsements, a Major Substantive Rule of the Department of Education**

**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 Chapter 115: Certification, Authorization and Approval of Educational Personnel

Part I and II, Requirements for Specific Certificates and Endorsements, a provisionally adopted major substantive rule of the Department of Education 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 legislation takes effect when approved.

Effective May 29, 2007.

## CHAPTER 44

### H.P. 38 - L.D. 37

#### Resolve, Regarding Legislative Review of Portions of MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for Persons with Mental Retardation, a Major Substantive Rule of the Department of Health and Human Services, Office of MaineCare 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 MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for Persons with Mental Retardation, a provisionally adopted major substantive rule of the Department of Health and Hu-

man Services, Office of MaineCare 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 if the following changes are made to the rule:

1. In section 2054 on reimbursement for contracted services, the rule regarding verification of the cost of services furnished under the contract must be changed to exempt from that requirement contracts with persons or entities that already have contracts with the Department of Health and Human Services and contracts with consultants;

2. In section 3024.12 on provision of a provider's federal income tax return, the rule must be changed to exclude from this requirement leases for office or day program space when the lease agreement is between unrelated parties;

3. In section 3024.3 on leases between individuals or organizations not related by common control or ownership, the rule must be changed to clarify that rule section 3024.3 does not apply to leases for office space or day program space in facilities that are separate from an intermediate care facility for persons with mental retardation (ICF-MR). The rule must provide that, with regard to those leases, the provider must demonstrate that the costs do not exceed prevailing market rates;

4. In section 4011.1.n on reimbursement for directors' and officers' liability insurance in the variable cost component, the provisionally adopted rule is approved. However, to accomplish the purposes of section 4011.1.n, the rule must be changed in section 7021.4 to adjust the base year so that directors' and officers' liability insurance costs are included in base year costs;

5. In section 4140 on reimbursement for a facility's motor vehicle or vehicles, the rule must be changed to allow for reimbursement of more than one vehicle if approved by the Department of Health and Human Services, Office of Adults with Cognitive and Physical Disability Services;

6. In section 4160 on reimbursement in the variable cost component for legal fees, the rule must be changed to exclude the provisionally adopted language on reimbursement for legal fees and to add language on reimbursement for legal fees that reflects the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, Provider Reimbursement Manual - Part 1 (Publication 15-1), section 2183 on reimbursement for legal fees, so that the rule applies to legal fees and costs that relate to the provider's furnishing of patient care; and

7. In section 4171 on reimbursement for staffing while residents are away from the facility at day habilitation programs, the rule must be changed to allow reimbursement of the facility's staffing costs, subject