

# 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**

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.

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## 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

to approval of the facility's staff by the Office of Adults with Physical and Cognitive Disability Services.

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

Effective May 30, 2007.

## CHAPTER 45

### H.P. 412 - L.D. 534

#### Resolve, Directing the Maine Turnpike Authority To Study the Relocation of the York Toll Booth

**Sec. 1. Study relocation of toll booth. Resolved:** That the Maine Turnpike Authority may not relocate the York toll booth until the authority has had the opportunity to study the need for and the expense of replacing a functional toll booth. The authority shall gather information on various approaches to address the issue of relocating the toll booth. In gathering the information, the authority shall hold informational sessions for discussions with interested parties; and be it further

**Sec. 2. Report. Resolved:** That the Maine Turnpike Authority shall submit a report to the Joint Standing Committee on Transportation no later than December 15, 2007. The report must include recommendations on whether to relocate the York toll booth.

See title page for effective date.

## CHAPTER 46

### S.P. 214 - L.D. 677

#### Resolve, Directing the Development of a Building Code and Building Rehabilitation Code Implementation Plan

**Sec. 1. Maine building codes implementation plan. Resolved:** That the Executive Department, State Planning Office, with assistance from the Office of the State Fire Marshal, the Department of Economic and Community Development, the Department of Professional and Financial Regulation and the Maine Historic Preservation Commission, collectively referred to in this resolve as "the agencies," shall develop a plan for implementing the Maine Model Building Code and the International Existing Building Code; and be it further

**Sec. 2. Duties. Resolved:** That in the development of the plan, the agencies shall consider the following:

1. What agency should provide oversight and administration of the codes;
2. How code updates should be handled;
3. Outreach, communication and technical assistance to municipalities;
4. Training and certification of code officers, architects and builders;
5. Enforcement and appeal procedures;
6. Estimated costs to implement mandatory codes;
7. Projected costs for code administration;
8. Funding options for initial implementation and ongoing administration;
9. Identification of overlap between model codes and codes and standards listed in the Maine Revised Statutes, Title 10, section 9703;
10. Guidance to municipalities regarding overlap between codes;
11. If rulemaking or statutory changes are needed to facilitate certain kinds of development, such as development of historic properties;
12. Phase-in dates for code adoption by service center communities, nonservice center communities with codes and towns adopting codes for the first time;
13. Identification of the advantages and disadvantages of maintaining the current state fire code, the NFPA 1, Uniform Fire Code, 2003 Edition, and the advantages and disadvantages of changing to the International Fire Code;
14. Identification of measures that allow for preserving the artistic and architectural integrity of historic structures without unreasonable risk to life and safety; and
15. Funding or incentives to put codes in place; and be it further

**Sec. 3. Public participation. Resolved:** That in developing the plan the agencies shall solicit input from interested parties, including, but not limited to, other state agencies, the Maine Municipal Association, groups representing Maine building officials and inspectors, builders, architects, engineers, real estate developers and public safety officials; and be it further

**Sec. 4. Completion date; report. Resolved:** That the agencies shall complete the development of the implementation plan by January 15, 2008. The report must include a recommended implementation schedule. The Executive Department, State Planning Office shall report to the Joint Standing