

# 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**

1. Projects initiated by health care providers aimed at the early screening and treatment of depression, including but not limited to the projects of Maine Medical Center's outpatient clinics and health care system; St. Mary's Regional Medical Center; MaineGeneral Health; the Federally Qualified Health Centers, as determined by the Department of Health and Human Services, Division of Licensing and Regulatory Services; the Maine Health Access Foundation; the Department of Health and Human Services, Maine Center for Disease Control and Prevention, MaineCare and adult and children's mental health offices; and health care providers in obstetrics and gynecology practices and pediatrics;

2. The Maine Health Access Foundation's study on barriers to integration of mental health care into health care settings, including regulatory, licensing and reimbursement barriers to the provision of screening and treatment of postpartum depression and other mental health disorders;

3. Ongoing efforts for screening within the Department of Health and Human Services, Maine Center for Disease Control and Prevention's Behavioral Risk Factor Surveillance System and Pregnancy Risk Assessment Monitoring System, the federal Special Supplemental Nutrition Program for Women, Infants and Children and the department's home visiting program and the department's public health and mental health work group's assessment of screening tools for mental health and recommendations for tracking, education and treatment; and

4. Projects implemented in New York, Illinois, New Jersey, New Hampshire and other states, with a description of programs, tools, implementation strategies, results and funding sources; and be it further

**Sec. 3. Report. Resolved:** That the work group under section 1 shall provide a report to the Joint Standing Committee on Health and Human Services with findings and recommendations, including any necessary legislation, for changes in regulations, standards and policies no later than January 15, 2008. The joint standing committee is authorized to submit legislation related to the subject matter of the report to the Second Regular Session of the 123rd Legislature.

See title page for effective date.

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## CHAPTER 59

S.P. 447 - L.D. 1284

**Resolve, Regarding the  
Organization and  
Administration of Energy  
Policy Responsibilities within  
State Government**

**Sec. 1. State energy policy office; review and recommendations. Resolved:** That the Executive Department, Office of Energy Independence and Security, in consultation with the Energy Resources Council and the State Planning Office, shall conduct a review of the current policy-making and administrative structures and functions within State Government relating to energy policy and, on the basis of this review, develop recommendations regarding the organization of these structures and functions within a clearly defined statutory framework that provides for well-coordinated and efficient formulation, management and administration of state energy policy. The review must include, but is not limited to, a comprehensive examination of the various energy-related powers, duties, responsibilities and programs that currently exist in various departments and offices of State Government and their associated budgets and staffing requirements. The recommendations must address the statutory establishment of an office or other entity within State Government dedicated to the development and implementation of energy policy and the administrative and fiscal implications of and justification for various options for such an office or entity; and be it further

**Sec. 2. Energy independence policy initiatives. Resolved:** That the Executive Department, Office of Energy Independence and Security shall, as part of the review and recommendations required under section 1, consider how the State may advance the development of new energy independence policy initiatives to support biofuels, renewable energy, cogeneration and green communities that reduce reliance on fossil fuels and increase reliance on renewable energy; and be it further

**Sec. 3. Report; legislation. Resolved:** That, by January 1, 2008, the Executive Department, Office of Energy Independence and Security shall submit a report regarding the review required by section 1, including its findings and recommendations, to the Joint Standing Committee on Utilities and Energy. The report must include draft legislation to implement the recommendations. After its review of the report, the joint standing committee may submit legislation to the Second Regular Session of the 123rd Legislature relating to the subject matter of this resolve.

See title page for effective date.

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## CHAPTER 60

S.P. 456 - L.D. 1308

**Resolve, Regarding the Use of  
Restraints in Nursing Facilities**

**Sec. 1. Preadmission information. Resolved:** That the Department of Health and Human

Services shall adopt rules to ensure that prior to admission to a nursing facility a prospective resident or the family or guardian of a prospective resident is provided with information about the policy of the nursing facility regarding the use of restraints, including examples of the use of and alternatives to restraints in the nursing facility. The examples must include the use of bed side rails and other strategies to address falls from bed. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

**Sec. 2. Report. Resolved:** That on or before January 1, 2008, January 1, 2009 and January 1, 2010, the Department of Health and Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the use of bed side rails as restraints.

See title page for effective date.

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## CHAPTER 61

### S.P. 112 - L.D. 339

#### Resolve, To Ensure Proper Levels of Care for the Elderly and the Disabled

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

**Whereas,** certain disabled persons are living in inappropriate institutional settings, often at significant emotional costs to them and their families and at significant financial cost to the State; and

**Whereas,** the Legislature believes that suitable alternative living arrangements are available or can be made reasonably available within existing resources; and

**Whereas,** the Legislature believes that other individuals who could be maintained in their current living arrangements if appropriate supports and education were provided are unnecessarily transferred to more restrictive settings; 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. Assessment process. Resolved:** That, within available resources, the Department of Health and Human Services shall establish an ongoing

process to assess the medically necessary physical, cognitive and behavioral needs of adult MaineCare members living in out-of-state facilities or living in state nursing or hospital facilities, including psychiatric hospitals and units, who could benefit from a less restrictive level of care but who have been unable to locate appropriate services because they have complex medical needs such as ventilator care or complex behavioral health needs; and be it further

**Sec. 2. Planning for services. Resolved:** That the Department of Health and Human Services shall plan for appropriate and medically necessary physical, cognitive and behavioral services within available resources, including residential and supportive services, so that individuals who are inappropriately placed, if they choose, may live in the least restrictive setting that meets their medical, physical, cognitive and behavioral needs. This planning must include a process for individualized planning that includes the hospital patient or nursing home resident, a guardian or other representative, representatives of the hospital or nursing facility, the assigned case manager and an appropriate representative of the Department of Health and Human Services; and be it further

**Sec. 3. Positive behavioral support training. Resolved:** That the Department of Health and Human Services shall work with interested parties to determine specific additions to the curriculum for positive behavioral support training for all long-term care settings as developed by the department and the Joint Advisory Committee on Select Services for Older Persons and to determine how this training can be delivered within available resources; and be it further

**Sec. 4. Discussions among stakeholders. Resolved:** That the Department of Health and Human Services shall facilitate discussions among the stakeholders with the following goals:

1. Creating useable procedures for transferring individuals between hospitals and nonhospital settings;
2. Developing an improved process for mutual clinical assistance and support when necessary; and
3. Reviewing and modifying, if necessary, the rules regarding the written notices provided to residents to ensure that they are adequately informed about the reasons for transfer, discharge or denial of admission or readmission; and be it further

**Sec. 5. Process. Resolved:** That the Department of Health and Human Services shall establish or collaborate with an appropriate working group that includes advocates and providers to ensure that the activities in sections 1 to 4 take place in a timely manner. The Department of Health and Human Services shall share with the working group data and information that is not personally identifiable collected through the planning process. The Department of