

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 1, 2017

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

Augusta, Maine
2017

Program and Prescription of Opioid Medications, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if:

1. Cancer aftercare. In Section 4, subsection A, paragraph 4, subparagraph b, division (i) in the portion of the rule that is a routine technical rule, Exemption Code A for active and aftercare cancer treatment must be amended to remove the 6-month limit for aftercare cancer treatment post remission;

2. Second prescriptions for opioids. In Section 4, subsection A, paragraph 4, subparagraph b, division (i) in the portion of the rule that is a routine technical rule, Exemption Code H is amended to provide that if an individual is prescribed a 2nd opioid after proving unable to tolerate a first opioid, the individual is not required to return the initial prescription to a pharmacy for collection prior to dispensation of the 2nd prescription. The department shall recommend to dispensers that a patient be provided with guidance on proper disposal of the first opioid prescription;

3. Early refills. In Section 4, subsection B of the rule, a new paragraph 3 is added to allow for dispensers to provide an early refill of a prescription to an individual before the refill date if, in the judgment of the dispenser, the early refill does not represent a pattern of early refill requests by the individual;

4. Verification by dispensers. In Section 4, subsection B of the rule, a new paragraph 4 is added to allow for dispensers to contact prescribers by telephone to verify and document information about prescriptions;

5. Out-of-state prescriptions. In Section 4, subsection B of the rule, a new paragraph 5 is added to establish a process for a dispenser who receives a prescription for an opioid medication from an out-of-state prescriber that does not comply with department rules. The dispenser may fill the prescription if the dispenser records an oral confirmation with the validity of the prescription from the out-of-state prescriber and documents any missing information such as diagnosis code, exemption code and acute or chronic pain notation and the dispenser makes a reasonable effort to determine that the oral confirmation came from the prescriber or prescriber's agent, which may include a telephone call to the prescriber's telephone number listed in a telephone directory or other directory; and

6. Delayed implementation of ICD-10 codes. In Section 5, subsection C, paragraph 1, subparagraph n of the rule, the requirement for dispensers to provide information to the Prescription Monitoring Program on the exemption code and ICD-10 code is delayed until July 1, 2018 and a provision is added to authorize a

waiver after that date from the department for dispensers who are unable with good cause to comply with the requirement.

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

Effective June 19, 2017.

CHAPTER 17

H.P. 941 - L.D. 1364

Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97: Private Non-Medical Institution Services, a Major Substantive Rule of the Department of Health and Human 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 Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97: Private Non-Medical Institution Services, a provisionally adopted major substantive rule of the Department of Health and Human Services that was submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A on June 6, 2016, is not authorized.

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

Effective June 20, 2017.

CHAPTER 18

S.P. 313 - L.D. 957

Resolve, To Direct Legislative Staff To Recodify and Revise Title 28-A of the Maine Revised Statutes

Sec. 1. Recodification and revision of Title 28-A of the Maine Revised Statutes. Resolved: That the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes, referred to in this resolve as "legislative staff," shall prepare a recodification and revision of the Maine Revised Statutes, Title 28-A for introduction in the First Regular Session of the 129th Legislature. Legislative staff may consult with the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, the Office of the Attorney General and other interested parties in preparing the recodification and revision.

Legislative staff shall submit the recodification and revision to the joint standing committee of the Legislature having jurisdiction over liquor matters no later than January 15, 2019.

See title page for effective date.

CHAPTER 19

H.P. 1128 - L.D. 1635

Resolve, Authorizing Certain Land Transactions by the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands

Preamble. The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House.

Whereas, certain real estate authorized for conveyance by this resolve is under the designations described in the Maine Revised Statutes, Title 12, section 598-A; and

Whereas, the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry may sell or exchange lands or interests in lands with the approval of the Legislature

in accordance with the Maine Revised Statutes, Title 5, section 6209 and Title 12, sections 1814, 1837 and 1851; now, therefore, be it

Sec. 1. Director of Bureau of Parks and Lands authorized to grant an access easement to the Town of Fort Kent across the Fort Kent State Historic Site. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry may grant an access easement to the Town of Fort Kent for the purposes of crossing over land owned by the bureau as the Fort Kent State Historic Site. This easement is required by the United States Army Corps of Engineers as part of the project to heighten and strengthen the earthen flood barrier along the St. John River and would extend the barrier to protect the Fort Kent Blockhouse, a state-owned National Historic Landmark, from future flooding.

See title page for effective date.

CHAPTER 20

H.P. 295 - L.D. 404

Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, a Late-filed Major Substantive Rule of the State Board 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 outside the legislative rule acceptance period; 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,