

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

10. One member representing Disability Rights Maine appointed by the Speaker of the House;

11. One member representing providers of homeless shelter services appointed by the Speaker of the House;

12. One member representing the Maine Sheriffs' Association appointed by the Speaker of the House;

13. One member representing providers of substance use disorder treatment appointed by the Speaker of the House;

14. The Commissioner of Health and Human Services or the commissioner's designee; and

15. The Commissioner of Corrections or the commissioner's designee.

The chairs of the working group shall invite the participation on the working group of a representative of the Judicial Department.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the working group.

Sec. 4. Appointments; convening of working group. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the working group. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the working group to meet and conduct its business.

Sec. 5. Duties. Resolved: That the working group shall review the State's mental health system and propose a mental health plan for the State. As part of its review, the working group shall examine:

1. Information on total state and federal dollars spent on children's and adult behavioral health care as coded by Medicaid and where those dollars are currently spent;

2. Access to mental health care in the State, including issues associated with waiting lists, geographic barriers to access and lack of adequate reimbursement to community-based programs that prevents those programs from reaching optimum capacity;

3. The quality of outcomes;

4. The costs required to provide mental health services in emergency rooms, inpatient settings, homeless shelters, jails and prisons as compared with the costs required to provide mental health services such as medication management, daily living support, peer

support and other therapies provided in community-based settings;

5. An assessment of assets and deficits; and

6. The projected effect of MaineCare expansion on the provision of mental health services.

Based on the information collected pursuant to this section, the working group shall propose a mental health plan for the State.

Sec. 6. Staff assistance. Resolved: That the Department of Health and Human Services shall provide necessary staffing services to the working group.

Sec. 7. Report. Resolved: That, no later than December 4, 2019, the working group shall submit a report that includes its proposed mental health plan for the State under section 5, including suggested legislation, for presentation to the Joint Standing Committee on Health and Human Services, the Joint Standing Committee on Criminal Justice and Public Safety, the Joint Standing Committee on Judiciary and the Joint Standing Committee on Appropriations and Financial Affairs.

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

Effective June 28, 2019.

CHAPTER 101

H.P. 1080 - L.D. 1478

Resolve, Regarding Legislative Review of Portions of Chapter 115: The Credentialing of Education Personnel, a Late-filed Major Substantive Rule of the Department of Education

Sec. 1. Adoption. Resolved: That final adoption of portions of Department of Education rule Chapter 115: The Credentialing of Education Personnel, a provisionally adopted major substantive rule of the Department of Education, referred to in this section as "the department," 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 the following changes are made:

1. The rule must be amended in Part I, Section 6(1)(A)(4) to require as a general qualification for certification by the department that the applicant hold a bachelor's degree from a regionally accredited college or university;

2. The rule must be amended in Part I, Section 6 to provide eligibility for certification by the department for an applicant who, within 7 years prior to applying for certification, has 5 years of valid teaching experience under an appropriate comparable certificate in the same certification subject area and has completed a bachelor's degree or graduate degree from a regionally accredited college or university;

3. The rule must be amended in Part I, Section 6 to clarify that the in-service training eligibility criteria for an applicant for renewal of a certified educational technician certificate requires completion of 45 hours of such in-service training;

4. The rule must be amended in Part I, Section 6 to clarify that the condition under that subparagraph requires that the individual has no interruption in service, excluding normal school vacations, paid leave and unpaid leave;

5. The rule must be amended in Part II, Section 1.2(A) regarding Endorsement 020: Elementary Teacher as follows:

A. The endorsement must allow the holder to teach students in the grade span of kindergarten to grade 8 until July 1, 2022; and

B. Beginning July 1, 2022, the endorsement must allow the holder to teach students in the grade span of kindergarten to grade 6;

6. The rule must be amended in Part II, Section 1.2(B)(2) regarding Endorsement 020: Elementary Teacher to require as an eligibility criterion for Endorsement Eligibility Pathway 2 that the applicant has passed pedagogical knowledge and skills assessment at the appropriate grade span, in accordance with Department of Education Reg. 13, or demonstrated successful completion of an approved alternative professional studies program;

7. The rule must be amended in Part II, Section 1.3(B)(2)(i) regarding Endorsement: Secondary Teacher to retain as an eligibility criterion for Endorsement Eligibility Pathway 2 that the applicant has completed a minimum of 6 semester hours in foundations of literacy and literacy methods relative to the subject area;

8. The rule must be amended in Part II, Section 1.4, regarding Secondary Teacher endorsement, as necessary, to include an Endorsement 710: Junior Reserve Officers' Training Corps teacher, which would allow the holder of that endorsement to serve as a Junior Reserve Officers' Training Corps teacher for students from grade 9 to grade 12. The internal 710 endorsement checklist must include that an applicant for such endorsement must be required to meet applicable general credentialing requirements in Part I of the rule and must be required to satisfy additional specific eligibility requirements as determined by the department

and as specified in Part II of the rule, except that the rule must provide that an applicant who does not meet such additional eligibility requirements under Part II of the rule is eligible for a conditional certificate for this endorsement upon a determination that the applicant has received a Junior Reserve Officers' Training Corps instructor certification from the United States Department of Defense in accordance with the applicable standards of the United States Department of Defense for senior military instructors and has completed a course approved by the department regarding the teaching of exceptional students in the regular classroom;

9. The rule must be amended in Part II, Section 1.3 regarding Endorsements: Middle Level Teacher, to retain the Middle Level Teacher endorsement with the following amendments:

A. In subsection (A) and subsection (B)(2)(a)(ii), remove the provisions regarding world language endorsements;

B. In subsection (B), specify that individuals who are not eligible through any pathway may be eligible for a conditional certificate;

C. In Endorsement Eligibility Pathway 1, remove the requirement of the completion of an approved course for teaching exceptional students in the regular classroom, which is already required elsewhere in the rule, and clarify that the applicant must have:

(1) Graduated from a state-approved program for the education of middle level teachers, together with a formal recommendation from the preparing institution for the endorsement being sought; and

(2) Earned a bachelor's degree from a regionally accredited college or university, in accordance with Part I, Section 6 of the rule;

D. In Endorsement Eligibility Pathway 2, amend the rule as follows:

(1) The applicant must have earned a bachelor's degree from a regionally accredited college or university, in accordance with Part I, Section 6 of the rule;

(2) The applicant does not have to hold a valid provisional or professional teaching certificate with a public preschool to grade 3, kindergarten to grade 6, grade 4 to grade 8, grade 6 to grade 12 or public preschool to grade 12 endorsement and instead must have completed a minimum of 24 semester hours in the area relevant to the middle school level endorsement being sought and that, for the purposes of this requirement, life and physical sciences must be aggregated and must include a minimum of 9 semester

hours in life sciences and a minimum of 9 semester hours in physical sciences; and

(3) The applicant must have passed a content area methods course, in accordance with Department of Education Reg. 13; and

E. The rule must be amended in the conditional certificate for endorsement to clarify that the applicant must have earned a bachelor's degree from a regionally accredited college or university in accordance with Part I, Section 6 of the rule and that the applicant must have completed a minimum of 24 semester hours in the areas relevant to the middle level teacher endorsement being sought and that the applicant is not required to hold a valid Maine provisional or professional teaching certificate with a public preschool to grade 3, kindergarten to grade 6, grade 4 to grade 8, grade 6 to grade 12 or public preschool to grade 12 endorsement;

10. The rule must be amended in Part II, Section 1.4(A) regarding Endorsement: 510, 517, 520, 614, 620, 625, 640, 670, 680 and 700, public preschool to grade 12, to describe endorsement area 700 as industrial arts/engineering and technology;

11. The rule must be amended in Part II, Section 1.11(B)(2)(e) and Part II, Section 1.11(B)(3)(c) regarding Endorsement 092: Literacy Specialist to retain that, in addition to having earned a master's degree in literacy and reading from a regionally accredited college or university in accordance with Part I, Section 6 of the rule, the applicant has earned graduate semester hours for a literacy and reading clinic encompassing course content in educational and instructional leadership, instructional supervision, adult learning theory and instructional coaching practices;

12. The rule must be amended in Part II, Section 1.12 regarding Certificate 215: Athletic Director to clarify that there are 2 steps and add the requirement that the applicant have completed an approved course for teaching exceptional students in the regular classroom;

13. The rule must be amended in Part II, Section 2.1(B)(3)(a)(iii), Part II, Section 2.1(B)(3)(b)(iii) and Part II, Section 2.1(B)(3)(c)(iii) regarding Endorsement 282: Teacher of Children with Disabilities to provide that, as an eligibility criterion under Endorsement Eligibility Pathways 1 to 3 for a conditional certificate for that endorsement, an applicant must have participated in an alternative certification and mentoring program designated by the department;

14. The rule must be amended in Part II, Section 2.2(B)(2)(a)(iii), Part II, Section 2.2(B)(2)(b)(iii) and Part II, Section 2.2(B)(2)(c)(iii) regarding Endorsement 286: Teacher of Children with Severe Disabilities to provide that, as an eligibility criterion under Endorsement Eligibility Pathways 1 to 3 for a condi-

tional certificate for that endorsement, an applicant must have participated in an alternative certification and mentoring program designated by the department;

15. The rule must be amended in Part II, Section 3 regarding Professional Teacher Certificate Based on Work Experience, by changing the title of Section 3 from "Professional Teacher Certificate Based on Work Experience" to "Professional Teacher Certificate Based on Authentic Field Experience";

16. The rule must be amended in Part II, Section 3 to require that the applicant have passed a content area assessment, in accordance with Department of Education Reg. 13, and passed a pedagogical knowledge and skills assessment in accordance with Department of Education Reg. 13 or demonstrated successful completion of an approved alternative professional studies program;

17. The rule must be amended in Part II, Section 4.2(B)(1)(c) regarding Endorsement 860: Cooperative Education Coordinator to provide that as a general endorsement eligibility criterion, for each endorsement, the applicant must have completed a minimum of one year of paid applied employment or teaching in the endorsement area during the 4 years preceding the initial application;

18. All necessary grammatical, formatting, punctuation and other technical nonsubstantive editing changes must be made to the rule, including, but not limited to, the removal of strikethrough or underlined letters or words remaining from prior drafts and edits and the amendment of inconsistent section, subsection, paragraph and subparagraph numbering or lettering in the rule, or any other inconsistent numbering and lettering in the rule, to ensure consistency in the sequential numbering and lettering of the rule; and

19. All other necessary changes must be made to the rule to ensure conformity throughout the rule and consistency with the provisions of this section.

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

Sec. 2. Report. Resolved: That the Department of Education, in consultation with the teacher preparation programs in the State, shall report to the Joint Standing Committee on Education and Cultural Affairs on the progress, steps taken and implementation of the transition of the Endorsement 020: Elementary from a grade span of kindergarten to grade 8 to a grade span of kindergarten to grade 6 pursuant to section 1, subsection 5 of this resolve. The department shall submit the report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs no later than March 1st of each year of the 3 years between the grade span changing

from kindergarten to grade 8 to kindergarten to grade 6.

Sec. 3. Funding in fiscal year 2019-20. Resolved: Notwithstanding any provision of law to the contrary, in fiscal year 2019-20 only, the Department of Education shall use funds within the Departmental Services, Other Special Revenue Funds account within the department to pay for the one-time programming charges and contracting staff necessary to implement the rule changes to Chapter 115: The Credentialing of Education Personnel authorized pursuant to this resolve.

Sec. 4. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Leadership Team Z077

Initiative: Allocates one-time funds for the programming costs and contracted support staff necessary to implement the changes in Chapter 115: The Credentialing of Education Personnel.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	\$93,125	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$93,125	\$0

See title page for effective date.

**CHAPTER 102
H.P. 70 - L.D. 84**

Resolve, Directing the Department of Health and Human Services To Allow Spouses To Provide Home and Community-based Services to Eligible MaineCare Members

Sec. 1. Department of Health and Human Services request to amend waiver. Resolved: That, no later than January 1, 2020, the Department of Health and Human Services shall submit a request to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to amend the existing federal 1915(c) waiver, granted pursuant to the Social Security Act, 42 United States Code, Section 1396n(c), that provides home and community-based services under the department's rule Chapter 101: MaineCare Benefits Manual, Chapter II, Section 19 to allow eligible members to receive ser-

vices provided by spouses who are employed as personal support specialists to provide those services. The waiver request must identify the specific services that may be provided by a spouse under the waiver.

Sec. 2. Rulemaking. Resolved: That the Department of Health and Human Services, upon receiving notice of approval for the amendment to the federal 1915(c) waiver from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services pursuant to section 1, shall amend the department's rule Chapter 101: MaineCare Benefits Manual, Chapter II, Section 19 to allow for spouses to be employed as personal support specialists for eligible members. A spouse may be reimbursed only for providing extraordinary care and services that the spouse is not normally expected to provide. The department shall adopt any rules necessary regarding the specific services that may be provided by a spouse under the waiver. Reimbursement for services provided by a spouse may not exceed the cap and limits in department rules.

Sec. 3. Report. Resolved: That 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 with an interim report by April 30, 2020 outlining the progress of applying for, receiving and implementing the amended federal 1915(c) waiver pursuant to section 1. The department shall submit a final report no later than January 1, 2021 outlining the progress of receiving and implementing the amended federal 1915(c) waiver, and, if the amended federal waiver is granted, the report must include data on the number of people receiving services under the department's rule Chapter 101: MaineCare Benefits Manual, Chapter II, Section 19 who employ personal support specialists who are spouses; the costs or savings from the employment of spouses as personal support specialists; and recommendations on the feasibility of future similar expansion to other MaineCare programs or other potential waivers available under Medicaid. The joint standing committee of the Legislature having jurisdiction over health and human services matters may report out a bill to the First Regular Session of the 130th Legislature regarding any recommendations contained in the report.

Sec. 4. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers 0147

Initiative: Provides funding needed due to the amendment to the existing 1915(c) waiver that provides home and community-based services under the Department of Health and Human Services rule Chapter