**State of Maine: Notice of Agency Rulemaking – July 12, 2023**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: <http://www.maine.gov/sos/cec/rules>. There is also a list of rulemaking liaisons (<http://www.maine.gov/sos/cec/rules/liaisons.html>), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

PROPOSED RULE NUMBER: **2023-P139**

CHAPTER NUMBER AND TITLE: **Ch. 243**, Uniform Reporting System for Health Care Claims Data Sets *(Routine Technical)*

BRIEF SUMMARY: This proposed rule adds new fields to collect de-identified substance use disorder (SUD) data, prescription drug rebate data, and additional dental claims information. It modifies fields in the medical claims file to better account for the payment arrangement type at the claim level. It also removes obsolete requirements, definitions, and sources.

PUBLIC HEARING: August 3, 2023, at 9:00 a.m. **(Remote only\*\*)**

**\*\*Please note:** This public hearing will be held virtually. To attend via zoom, select the link below or call the number provided to attend via conference call.

**Zoom meeting link**:  
<https://mainestate.zoom.us/j/88208883856?pwd=dnhpOXdSUHpTTTd6N0FpdFFDb2s0UT09>

**Call in number**: 1 309 205 3325 US

**Meeting ID**: 882 0888 3856   
COMMENT DEADLINE: August 3, 2023 at 5:00 p.m.

*Copies of these proposed rules can be reviewed and printed from the MHDO website at* [*https://mhdo.maine.gov/rules.htm*](https://mhdo.maine.gov/rules.htm) *or, to receive a paper copy call 287-6722.*

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MHDO RULEMAKING LIAISON: Debra Dodge, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333. Telephone: (207) 287-6724. Fax: (207) 287-6732. Email: [Debra.J.Dodge@Maine.gov](mailto:Debra.J.Dodge@Maine.gov).

IMPACT ON MUNICIPALITIES OR COUNTIES. This rule will not have a fiscal impact on municipalities, counties or small businesses.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 8703(1), 8704(4), 8708(6-A), 8712(2)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

MHDO WEBSITE: <https://mhdo.maine.gov/>.

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

PROPOSED RULE NUMBER: **2023-P140**

CHAPTER NUMBER AND TITLE: **Ch. 247**, Uniform Reporting System for Non-Claims Based Payments and Other Supplemental Health Care Data Sets *(Routine Technical)*

BRIEF SUMMARY: This proposed rule adds new data fields and updates others to ensure collection of aggregated dollar amounts paid in relation to substance use disorder (SUD) and non-claims-based prescription drug rebate data.

PUBLIC HEARING: August 3, 2023, at 9:00 a.m. **(Remote only\*\*)**

*\*\*Please note:* This public hearing will be held virtually. To attend via zoom, select the link below or call the number provided to attend via conference call.

**Zoom meeting link**:

<https://mainestate.zoom.us/j/88208883856?pwd=dnhpOXdSUHpTTTd6N0FpdFFDb2s0UT09>

**Call in number**: 1 309 205 3325 US

**Meeting ID**: 882 0888 3856

COMMENT DEADLINE: August 14, 2023 at 5:00 p.m.

*Copies of these proposed rules can be reviewed and printed from the MHDO website at* [*https://mhdo.maine.gov/rules.htm*](https://mhdo.maine.gov/rules.htm) *or, to receive a paper copy call 287-6722.*

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MHDO RULEMAKING LIAISON: Debra Dodge, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333. Telephone: (207) 287-6724. Fax: (207) 287-6732. Email: [Debra.J.Dodge@Maine.gov](mailto:Debra.J.Dodge@Maine.gov).

IMPACT ON MUNICIPALITIES OR COUNTIES. This rule will not have a fiscal impact on municipalities, counties, or small businesses.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 8703(1), 8704(1)&(4), 24-A MRS §6951

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

MHDO WEBSITE: <https://mhdo.maine.gov/>.

AGENCY: **10-144 -** Department of Health and Human Services (DHHS), **Office of MaineCare Services (OMS) - Division of Policy**

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM): **Ch. II Section 60**, Medical Supplies and Durable Medical Equipment

# PROPOSED RULE NUMBER: **2023-P141**

CONCISE SUMMARY:This proposed rulemaking seeks to make the following changes. The citations used below reflect the provisions in the proposed rule, unless otherwise specified.

* Adds a definition for “qualified provider” and indicates that qualified providers, rather than specific provider types, can prescribe and conduct face-to-face evaluations. This change aligns with Medicare’s requirements and will ensure the policy remains current with evolving federal and state requirements.
* Deletes the definition of “Providers of Medical Supplies and Durable Medical Equipment” and moved most of the definition into Section 60.04, Provider Requirements, because this is a substantive provision and more than a definition. The Department proposes to add an exception to the requirement of having a storefront in Maine or within 15 miles of the border if the Department, in its sole discretion, determines that waiving that requirement is in the best interest of the MaineCare program. Additionally, Section 60.04(5) is taken from the former Section 60.01-12(C).
* Renumbers the current Section 60.05, Policies and Procedures, to 60.06, Policies and Procedures.
* Creates Section 60.06-1, Face-to-Face Encounter, which largely contains content from current Section 60.05. The Department proposes a few changes to the content, such as providing that the written order may be, but does not have to be, prescribed by the provider who performed the face-to- face encounter.
* Removes the requirement in 60.06-1, Face-to-Face Encounters, that DME providers must inform members prior to the provision of DME that is not covered by MaineCare that the member will be responsible for payment because this requirement is already included in 10-144 CMR Ch. 101, Ch. I Section 1.
* Re-named and re-numbered current Section 60.05-1, Requirements, to Section 60.06-2, Medical Supplies and DME Requirements.
* Allows qualified providers, rather than a physician or PCP, to prescribe medical supplies and DME in Section 60.06-2(B) because different provider types can prescribe medical supplies and DME within their scope of practice.
* Removes current Section 60.06-2(I) which contains information regarding prior authorization (PA) and the Department’s Health PAS Portal because it is already included elsewhere in the policy.
* Adds the requirement in Section 60.06-2(I) that a physician or qualified provider must review a member’s need for DME and supplies annually, as required by 42 CFR 440.70(b)(3)(iii).
* In Section 60.06-2(J), requires a “prescribing provider,” rather than a “prescribing physician,” to maintain the referenced documentation, including the name of the “qualified provider,” rather than the “physician, nurse practitioner, physician assistant or clinical nurse specialist,” who performed the face-to-face encounter.
* In Section 60.06-3(F), requires providers to retain, rather than submit, documentation that applicable equipment can freely pass through all entryways without the need for modification or, if applicable, that necessary modifications or structural changes occurred prior to the PA request. Medicare uses this policy, and it is reasonable for MaineCare to utilize this policy.
* Adds that the Department shall rent and/or purchase items consistent with Medicare practices in Section 60.06-4.
* In Section 60.06-7, Replacement of DME, moved the last sentence in the provision regarding when replacement will not be allowed, to the beginning of this provision and added a sentence that DME that is functioning properly will not be replaced unless a change in the member’s condition requires a change of DME.
* In Section 60.06-8, to align with 42 CFR §440.70, removes the requirement that medical supplies and DME may be provided to members residing in their own homes and clarifies that medical supplies and DME may be provided for use in any setting in which normal life activities take place, other than a hospital or any setting in which payment is or could be made under MaineCare for inpatient services that include room and board.
* In Section 60.06-9, clarifies that the regular rate of reimbursement for nursing facilities and intermediate care facilities for individuals with intellectual disabilities is intended to include DME upgrades and add-ons.
* Moves the content of former Section 60.06-2, Prior Authorization, into Section 60.07, Prior Authorization Requirements.
* Removes the current rule provision Section 60.06-2(2), Orthotics and Prosthetic DME, because it contains redundant requirements and unnecessary definitions.
* Moves the content from Section 60.05-8, Prosthetics, and Section 60.12(L), Orthotics & Prosthetics, to new Section 60.08-2, Orthotics and Prosthetics, and makes a few changes to clarify language.
* Adds Section 60.08-3, Augmentative and Alternative Communication Devices, requiring members to trial augmentative and alternative communication devices before the Department will rent or purchase the devices. It is standard industry practice for patients to trial these devices before purchasing, and manufacturers and providers are accustomed to this. Currently, this is a PA-based requirement that is on the Department’s website.
* Moves Section 60.12(Z) to Section 60.08-4, Specially Modified Foods and Formulas, which provides that specially modified foods and formulas are covered when the member has inborn errors of metabolism. The Department proposes to no longer allow members to receive specially modified foods and formulas when they have “a qualifying medical condition where the most effective and appropriate form of caloric or nutritional intake is orally” because it lacks specificity. Members will continue to be eligible for specially modified foods and formulas when they have inborn errors of metabolism.
* In Section 60.08-5, specifies that modifications and inserts for diabetic shoes are limited to a combined total of six units per member per rolling year, instead of per year.
* Adds coverage for breast milk bags with a limit of 120 units (bags) per member per rolling month in Section 60.08-14.
* Adds coverage for automatic blood pressure monitors with a limit of one unit per member per three calendar years in Section 60.08-15.
* **Section 60.10, Reimbursement**: The Department proposes the following changes to the reimbursement provision:
  + Retroactively to January 1, 2023, establishes reimbursement for all Medicare covered codes at 100% of the current Medicare fee schedule amount and adds an annual cost-of-living adjustment for the rates for all non-Medicare covered codes. These changes are permitted retroactively pursuant to 22 MRS §42(8) because they represent an investment in services, to the benefit of MaineCare providers.
  + Clarifies that the Medicare rates are pulled from the Medicare DMEPOS Fee Schedule.
  + Moves the Incontinence Supplies reimbursement provision from the current Section 60.09-1(C) to Section 60.10-2. The Department proposes to adjust the maximum amount allowed by MaineCare for incontinence supplies with an inflation adjustment based on the Consumer Price Index for All Urban Consumers for Medical Equipment and Supplies. This change will be retroactive to January 1, 2023, and is lawful pursuant to 22 MRS §42(8) because the inflation adjustment benefits providers.
  + Adds Section 60.10-2 that contains criteria for providers to request incontinence supplies that are not on the MaineCare fee schedule.
  + Amends Section 60.10-6 provision related to the reimbursement of rental items, so that rental periods (except for oxygen) follow Medicare rental periods.
  + Modifies Section 60.10-7 to remove redundant information and to align oxygen rental requirements with current MaineCare practices.

PL 2021 Ch. 398, required the Department to align rate structures and fee schedules with Medicare. The current rule, which was effective in 2018, does already align most DME rate structures and fee schedules with Medicare; this proposed rulemaking expands the alignment with Medicare, including adopting Medicare’s rental period classifications and corresponding rental rates, and thus complies with PL 2021 Ch. 398. These changes also ensure MaineCare’s compliance with the Upper Payment Limit demonstration required by the Centers for Medicare & Medicaid Services and authorized by section 1903(i)(27) of the *Social Security Act*. This rulemaking also complies with PL 2021 Ch. 639, *An Act to Codify MaineCare Rate System Reform*, codified in 22 MRS §3173-J. The Department issued a Rate Determination Initiation Notice on September 27, 2022. The Department held a public rate forum on December 1, 2022, to collect stakeholder input and comments to inform the Rate Determination process for Medical Supplies and DME and accepted written comments through December 15, 2022. The Department determined that for medical supplies and DME for which there is a Medicare rate, the Medicare rate represents the most appropriate benchmark, and payment of 100% of current year Medicare is appropriate. The Department also determined that the rates for medical supplies and equipment that are not covered by Medicare should receive an annual inflation adjustment based on the Consumer Price Index for All Urban Consumers for medical equipment and supplies (CUUR0000SEMG). The Department complies with 22 MRS §3173(3), by engaging in APA rulemaking to implement this amended reimbursement methodology. The expansion of the current Medicare reimbursement methodology, adding the COLA adjustment to the calculation of the costs of other state Medicaid agencies for non-Medicare DME, and rental period changes are proposed to be applied retroactive to January 1, 2023, as the changes, consistent with 22 MRS §42(8), represent an investment in services, to the benefit of DME providers and members.

* Deletes most of Appendix I. Appendix I contains specific PA criteria for select items. The Department is moving most of these criteria to the MaineCare Health PAS Portal (<https://mainecare.maine.gov/Default.aspx>). The rulemaking removes references to Appendix I and refers providers to the Portal. The Department is proposing this change for purposes of efficiency and flexibility, as it will no longer utilize APA rulemaking to make changes to certain medical criteria/standards. Some medical criteria will remain in the APA rule: Appendix I, Section 60.12(L), Orthotics and Prosthetics, moves to new Section 60.08-2, Orthotics and Prosthetics; and Appendix I, Section 60.12(Z), Specially Modified Foods and Formulas, moves to Section 60.08-4, Specially Modified Foods and Formulas.

See [http://www.maine.gov/dhhs/oms/rules/index.shtml](http://www.maine.gov/dhhs/oms/rules/index.shtmlf) for rules and related rulemaking documents.

**DATE, TIME, AND PLACE OF PUBLIC HEARING:** 1:00 p.m., Wednesday, August 2, 2023. The Department will hold a combined in-person and remote (via Zoom) public hearing. Location: State Office Building, Conference Rooms A and B, 109 Capitol Street, Augusta, ME

**Zoom Meeting link:** <https://mainestate.zoom.us/j/83673180919>

**Meeting ID:** 836 731 80919

*Some devices may require downloading a free app from Zoom prior to joining the public hearing event. The Department requests that any individual requiring special arrangements to attend the hearing in person contact the agency person listed below 5 days in advance of the hearing.*

In addition to the public hearing, individuals may submit written comments to DHHS by the date listed in this notice.

DEADLINE FOR COMMENTS: Comments must be received by 11:59 p.m. on August 12, 2023.

AGENCY CONTACT PERSON:Henry Eckerson, Comprehensive Health Planner II, MaineCare Services, 109 Capitol Street - 11 State House Station Augusta, Maine 04333-0011. Telephone: **(**207) 624-4085. Fax: (207) 287-6106. TTY: 711 (Deaf or Hard of Hearing).Email:[Henry.Eckerson@Maine.gov](mailto:Henry.Eckerson@Maine.gov).

IMPACT ON MUNICIPALITIES OR COUNTIES:The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

# CONTACT PERSON FOR SMALL BUSINESS INFORMATION: N/A

STATUTORY AUTHORITY:Department staff’s professional judgement; 42 CFR §440.70; 22 MRS §3173-J; 22 MRS §42(8); PL 2021 Ch. 398 §A-17; and 12/1/22 Public Rate Setting Forum for the public, including stakeholders.

# SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

OMS WEBSITE: <https://www.maine.gov/dhhs/oms/>.

OMS RULEMAKING LIAISON: [Jennifer.Patterson@Maine.gov](mailto:Jennifer.Patterson@Maine.gov).

DHHS WEBSITE: <https://www.maine.gov/dhhs/>.

DHHS RULEMAKING LIAISON: [Emily.A.Cathcart@Maine.gov](mailto:Emily.A.Cathcart@Maine.gov).

**ADOPTIONS**

AGENCY: **29-250** - Secretary of State (SOS), **Bureau of Corporations, Elections & Commissions (CEC)**

CHAPTER NUMBER AND TITLE: **Ch. 700**, Rules Governing Notaries Public, Notarial Officers, Notarial Acts and the Procedures for Electronic and Remote Notarization.

ADOPTED RULE NUMBER: **2023-101** *(Emergency)*

CONCISE SUMMARY: The rule will govern notaries public, notarial officers and notarial acts including establishing the standards and procedures for electronic and remote notarization pursuant to the *Revised Uniform Law on Notarial Acts*. This emergency rule will repeal and replace the current notary rule (Ch. 700).

The *Revised Uniform Law on Notarial Acts* (RULONA) was effective on July 1, 2023, which was a Saturday, and granted the Secretary of State authority to adopt new administrative rules. As a result of comments made on the proposed rules, the Secretary of State determined that there were substantial changes needed to be made to the proposed rules (Ch. 700). Therefore, to have rules in place for the adoption of the new law, we are filing these emergency rules to be effective on July 5, 2023.

EFFECTIVE DATE: July 5, 2023

CEC CONTACT PERSON: Cathy Beaudoin, Bureau of Corporations, Elections & Commissions, 111 Sewall Street – 29 State House Station, Augusta, Maine 04333. Telephone: (207) 624-7748. Fax: (207) 287-5874. Email: [Cathy.Beaudoin@Maine.gov](mailto:Cathy.Beaudoin@Maine.gov).

CEC WEBSITE: <https://www.maine.gov/sos/cec/index.html>.

CEC RULEMAKING LIAISON: [Julie.Flynn@Maine.gov](mailto:Julie.Flynn@Maine.gov).

AGENCY: **29-250** - Secretary of State (SOS), **Bureau of Corporations, Elections & Commissions (CEC)**

CHAPTER NUMBER AND TITLE: **Ch. 720**, Rules Governing the Licensing of Marriage Officiants who are Authorized to Solemnize Marriages in Maine

ADOPTED RULE NUMBER: **2023-102** *(Emergency)*

CONCISE SUMMARY: The rule will govern the licensing of marriage officiants pursuant to Title 5, section 90-G who are thereby authorized to solemnize marriages in Maine pursuant to Title 19-A Ch. 23.

The new law for marriage officiants was effective on July 1, 2023, which was a Saturday, and granted the Secretary of State authority to adopt new administrative rules. As a result of comments made on the proposed rules, the Secretary of State determined that there were substantial changes needed to be made to the proposed rules (Ch. 720). Therefore, to have rules in place for the adoption of the new law, we are filing these emergency rules to be effective on July 5, 2023.

EFFECTIVE DATE: July 5, 2023

CEC CONTACT PERSON: Cathy Beaudoin, Bureau of Corporations, Elections & Commissions, 111 Sewall Street – 29 State House Station, Augusta, Maine 04333. Telephone: (207) 624-7748. Fax: (207) 287-5874. Email: [Cathy.Beaudoin@Maine.gov](mailto:Cathy.Beaudoin@Maine.gov).

CEC WEBSITE: <https://www.maine.gov/sos/cec/index.html>.

CEC RULEMAKING LIAISON: [Julie.Flynn@Maine.gov](mailto:Julie.Flynn@Maine.gov).

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 171**, Control of Petroleum Facilities

ADOPTED RULE NUMBER: **2023-103** *(Final adoption, major substantive)*

CONCISE SUMMARY: This rule establishes requirements for new and existing petroleum storage facilities. On June 21, 2021, the governor signed into law LD 163, *An Act Concerning the Regulation of Air Emissions at Petroleum Storage Facilities*. In accordance with this legislation, the Department initiated rulemaking to align its rules with the new requirements the Act placed in 38 MRS §590 subsection 1. This regulation implements these requirements by establishing new control, operating, inspection, testing, monitoring, recordkeeping, and reporting requirements for petroleum storage facilities throughout the state.

EFFECTIVE DATE: August 4, 2023

AGENCY CONTACT PERSON: Lynn Muzzey, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333. Telephone: (207) 287-2229. Email: [Lynn.Muzzey@Maine.gov](mailto:Lynn.Muzzey@Maine.gov).

DEP WEBSITE: <https://www.maine.gov/dep/>.

DEP RULEMAKING LIAISON: [Mark.T.Margerum@Maine.gov](mailto:Mark.T.Margerum@Maine.gov).

AGENCY: **05-071 – Department of Education (DOE)**

CHAPTER NUMBER AND TITLE: **Ch. 101**, Maine Unified Special Education Regulation Birth to Age 20

ADOPTED RULE NUMBER: **2023-104** *(Emergency adoption, major substantive)*

CONCISE SUMMARY: In March 2023, the Department of Education (DOE) implemented emergency measures to address the financial shortage facing Maine’s special purpose private schools. At that time, the DOE deployed available resources to provide a financial stop-gap. In the immediate sense, these resources provided temporary relief, however, on May 31, the Department of Education determined that fiscal year 2024 is a critical timeline for the financial stability of special purpose private schools and the availability of a continuum of educational placements for students with disabilities. In order to ensure compliance with Individuals with *Disabilities Education Act* (IDEA) and the *Maine Unified Special Education Regulation* (MUSER) and to ensure the provision of a free, appropriate public education (FAPE) to all eligible students, the Department has chosen to move forward with an emergency rule change. The current funding structure outlined in Section XVIII.3.C(2) of MUSER for private schools that serve exclusively students with disabilities (referred to throughout as “special purpose private schools”) is causing those schools to limit or cease operations, leaving some of Maine’s most significantly impacted children without the educational placements they are entitled to by law. Further breakdown of this critical component of the continuum of educational placements will leave the State unable to maintain compliance with IDEA and MUSER at the start of the 2024 fiscal year.

Based on the detailed findings below in the “findings of emergency,” Department has determined that a rule change is necessary on an emergency basis in order to protect the public health, safety and general welfare by ensuring that there is a continuum of placements available for all students with individualized education programs (IEPs) in accordance with federal and state law as follows:

* **Change #1**: Section XVIII.3.C(2) is amended to change the required number of instructional days to the “ *days on which instruction was provided in accordance with the school’s calendar”* rather than the a*ctual days of student attendance for the year.* Rationale: The current funding formula penalizes the private school when a student is unable to attend, even if the lack of attendance is due to a disability-related reason, despite the obligation of the private school to have staff and supports available for the student every day of the school year.
* **Change #2**: adds a section (3-A) to ensure “*Each SAU shall pay the daily tuition rate calculated above for the total number of student days, regardless of whether the student is in attendance each day, with the following exception: the IEP Team determines whether a student attends during ESY/full-year programming; if the IEP Team decides a student doesn’t need ESY/full-year programming, the SAU is not required to pay the daily tuition rate for any day that falls outside the student’s program year (e.g. during the summer months).”* Rationale: Some students attend special purpose private schools only during the regular school year, while others attend extended school year, or year-round programming. Because the revised rule moves away from linking payment to attendance, an exception was warranted to provide that the sending SAU is only obligated to pay for the days in each student’s program, instead of having every SAU pay for the full year, despite sending a student for the regular school year only. A Note has been added following this language to clarify specifically what changes when a student attends only during the regular school year.
* **Change #3**: adds a section 4(D) which provides that *“nothing in subparagraph (4) shall limit any increase in the tuition rate resulting from the change in calculating the number of student days in subparagraph (2) from the actual days of student attendance to the days on which instruction was provided in accordance with the school’s calendar.”* Rationale: This change ensures that any increase in tuition resulting from the change in 2023 does not get reduced by the cap on the percentage of increase from year to year.

EFFECTIVE DATE: July 7, 2023

DOE CONTACT PERSON / RULEMAKING LIAISON: Laura Cyr, Department of Education, 23 State House Station, Augusta, Maine. Telephone: (207) 446-8791. Email: [Laura.Cyr@Maine.gov](mailto:Laura.Cyr@Maine.gov).

DOE WEBSITE: <https://www.maine.gov/doe/home>.

AGENCY: **05-071 – Department of Education (DOE)**

CHAPTER NUMBER AND TITLE: **Ch. 33**, Rules Governing Physical Restraint and Seclusion

ADOPTED RULE NUMBER: **2023-105** *(Final adoption, major substantive)*

CONCISE SUMMARY: The Department is submitting a final adoption of the legislatively reviewed Ch. 33: *Rules Governing Physical Restraint and Seclusion*. The Department opened two comment periods and worked the rule through the major substantive rulemaking process which included full legislative review. The first comment period began on November 22, 2021 an opened with a public hearing that was held in-person and offered a virtual component. This comment period closed on December 3, 2021. As a result of the comments received during this period, the Department is opened a second, targeted comment period limited to proposed definitions for protective physical interventions and voluntary, and a refined definition for serious physical injury as the result of comments received in response to the proposed rule. This comment period closed on March 4, 2022. This rule revision was promoted by statutory changes that were made regarding restraint and seclusion. The revised rule includes new definitions, prohibitions on unlawful restraint and seclusions, reporting requirements and expectations for the provisions of technical assistance. These changes required targeted revisions to ensure that the rule for restraint and seclusion procedures is in line with the statute. The provisional rule was filed with the Secretary of State on December 8, 2022 and delivered to the Legislative Council on the same day. The rule received a public hearing in the Education and Cultural Affairs Committee and was heard and debated in both the House and the Senate. The language was signed by the Governor on June 12, 2023.

EFFECTIVE DATE: August 6, 2023

DOE CONTACT PERSON / RULEMAKING LIAISON: Laura Cyr, Department of Education, 23 State House Station, Augusta, Maine. Telephone: (207) 446-8791. Email: [Laura.Cyr@Maine.gov](mailto:Laura.Cyr@Maine.gov).

DOE WEBSITE: <https://www.maine.gov/doe/home>.

AGENCY: **09-137 – Department of Inland Fisheries and wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.07**, Deer Hunting (Antlerless Deer Permit Allocations)

ADOPTED RULE NUMBER: **2023-106**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife (IFW) has adopted antlerless deer permit (ADP) numbers for the 2023 deer hunting seasons and special muzzle-loading season by setting specific permit allocations by Wildlife Management District (WMD) or deer management subunit. Antlerless deer permit numbers are adjusted by IFW on an annual basis by department biologists who consider deer harvest levels, biological metrics and indices, and estimates of winter severity when evaluating the status of the deer population within each wildlife management district (WMD). Antlerless deer permit recommendations are based on removal rates of adult does that will stabilize, increase, or decrease deer densities. The rule also establishes a 2-day youth hunt to implement legislation from the 131st Maine Legislature. A complete copy of the rule may be requested by contacting the Agency Contact Person.

EFFECTIVE DATE: July 12, 2023

AGENCY CONTACT PERSON /SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: [Becky.Orff@Maine.gov](mailto:Becky.Orff@Maine.gov).

IFW WEBSITE: <https://www.maine.gov/ifw/>.

AGENCY: **09-137 – Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 17**, Trapping: **17.06**, Beaver Trapping

ADOPTED RULE NUMBER: **2023-107**

CONCISE SUMMARY: The Department of Inland Fisheries and Wildlife has made annual adjustments to the areas where beaver trapping is opened or prohibited. Such closures are made to manage beavers and beaver conflicts on a local scale. As in previous years, the Department has opened or closed certain areas to beaver trapping in response to requests from landowners. The current list of beaver trapping closures has modifications in towns within WMDs 17 and 23. A complete copy of the rule can be requested from the Agency Contact Person.

EFFECTIVE DATE: July 12, 2023

AGENCY CONTACT PERSON /SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: [Becky.Orff@Maine.gov](mailto:Becky.Orff@Maine.gov).

IFW WEBSITE: <https://www.maine.gov/ifw/>.