

APPROVED
MARCH 18, 2020
BY GOVERNOR

CHAPTER
136
RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

H.P. 1481 - L.D. 2080

Resolve, Regarding Legislative Review of Portions of Chapter 104: Maine State Services Manual, Section 8, Wholesale Prescription Drug Importation Program, 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, a 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 104: Maine State Services Manual, Section 8, Wholesale Prescription Drug Importation Program, 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, is authorized only if the following changes are made.

1. The rule must be amended in Section 8.01 in the last sentence to provide that the department shall submit an application no later than May 1, 2020, and, if the federal rule is not finalized prior to May 1, 2020, that the department shall submit a subsequent or revised application as soon as practicable after finalization of the federal rule.

2. The rule must be amended in Section 8.02 by amending the time allowed for input from between January 1, 2020 and July 1, 2020 to between January 1, 2020 and March 16, 2020 and to allow for additional input from stakeholders as necessary after the federal rule is finalized.

3. The rule must be amended in Section 8.03 to require the department, following the conclusion of the stakeholder input process and as required by Title 5, section 2042, to submit an application to the United States Department of Health and Human Services to establish a state importation program no later than May 1, 2020. The rule must be amended to also require that, if the final federal rule is not released before May 1, 2020, the department shall submit a subsequent or revised application to establish a state importation program as soon as is practicable after the release of the final federal rule. The rule must be amended to also require that, if the department determines further rulemaking is necessary to implement the requirements of the program design, additional rules will be proposed.

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

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