Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Financial Institutions

Umbrella-Unit: 02-029

Statutory authority: 9-A MRS §§ 1-102(2), 1-110, 6-104(1)(E), 8-504, 8-507(1), 8-508, 9-

302(1); 9-B MRS §§ 111, 215, 241(3)

Chapter number/title: Ch. 119 (Regulation 19), Alternative Mortgage Transactions (a joint

rule with 02-030 - Bureau of Consumer Credit Protection, Ch. 250)

Filing number: 2016-125, 126 **Effective date**: 7/25/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of this rule-making is to substantially align the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection's *Alternative Mortgage Transactions* joint rule 19/250 with the federal Consumer Financial Protection Bureau's *Alternative Mortgage Transaction Parity* regulation known as Regulation D. By substantially aligning Maine's regulation of alternative mortgages secured by a first-lien on real estate with federal alternative mortgage regulations, while retaining state specific language relating to borrowers' right prepay at any time, the rule will provide protections for consumers, ease compliance burdens for lenders and even the playing field between state and national financial institutions making alternative mortgage transactions in Maine.

Basis statement:

The purpose of this rule-making is to substantially align the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection's Alternative Mortgage Transactions joint rule 19/250 with the federal Consumer Financial Protection Bureau's *Alternative Mortgage Transaction Parity* regulation known as Regulation D. The regulation is applicable to first-lien mortgage loans with adjustable rates and finance charges made by Maine financial institutions and creditors.

Fiscal impact of rule:

None expected.

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Consumer Credit Protection

Umbrella-Unit: 02-030

Statutory authority: 9-A MRS §§ 1-102(2), 1-110, 6-104(1)(E), 8-504, 8-507(1), 8-508, 9-

302(1); 9-B MRS §§ 111, 215, 241(3)

Chapter number/title: Ch. 250 (Rule 250), Alternative Mortgage Transactions (a joint rule

with 02-029 - Bureau of Financial Institutions, Ch. 119

Filing number: 2016-125, 126 Effective date: 7/25/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of this rule-making is to substantially align the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection's *Alternative Mortgage Transactions* joint rule 19/250 with the federal Consumer Financial Protection Bureau's *Alternative Mortgage Transaction Parity* regulation known as Regulation D. By substantially aligning Maine's regulation of alternative mortgages secured by a first-lien on real estate with federal alternative mortgage regulations, while retaining state specific language relating to borrowers' right prepay at any time, the rule will provide protections for consumers, ease compliance burdens for lenders and even the playing field between state and national financial institutions making alternative mortgage transactions in Maine.

Basis statement:

The purpose of this rule-making is to substantially align the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection's Alternative Mortgage Transactions joint rule 19/250 with the federal Consumer Financial Protection Bureau's *Alternative Mortgage Transaction Parity* regulation known as Regulation D. The regulation is applicable to first-lien mortgage loans with adjustable rates and finance charges made by Maine financial institutions and creditors.

Fiscal impact of rule:

None expected.

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Insurance

Umbrella-Unit: 02-031

Statutory authority: 24-A MRS §§ 212, 731-B

Chapter number/title: Ch. 740, Credit for Reinsurance

Filing number: 2016-005 **Effective date**: 1/24/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To update the current rule and implement 2013 Public Law ch. 238, Part B, which enacts the current version of the *NAIC Credit for Reinsurance Model Act* and to update the rule in light of other statutory changes that have occurred since the rule's 1993 adoption. Adoption allows Maine to remain in compliance with current and pending NAIC accreditation standards.

Basis statement:

The Superintendent of Insurance hereby amends Bureau of Insurance Rule 740, *Credit for Reinsurance*, pursuant to 24-A MRSA §§ 212 and 731-B, in order to implement the newly adopted provision of the *Maine Credit-for-Reinsurance Act* that allows reduced collateral for reinsurance ceded to "certified" reinsurers, and to make other necessary revisions that have been identified since the Rule's 1993 adoption in order to address various technical issues and to reflect changes to the controlling Maine law and National Association of Insurance Commissioners (NAIC) accreditation standards.

A few revisions have been made to the provisions governing certified reinsurers. The amendments have otherwise been adopted as proposed, with some non-substantive editorial revisions.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Insurance

Umbrella-Unit: 02-031

Statutory authority: 24-A MRS §§ 212, 545

Chapter number/title: Ch. 545, Producer and Business Entity Liense and

Appointment Fees

Filing number: 2016-021 **Effective date**: 2/13/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of this rule is to reduce license fees paid by or with respect to resident and nonresident insurance producers as well as appointment fees paid with respect to nonresident producers.

Basis statement:

The purpose of the 2015 amended rule is to lower the resident individual producer license fee from \$30 to \$10, the nonresident individual producer license fee from \$70 to \$40, and the nonresident individual producer appointment fee from \$70 to \$45.

Fiscal impact of rule:

The Bureau of Insurance estimates a revenue loss of approximately \$3.94 million per biennium as a result of this proposal.

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Insurance

Umbrella-Unit: 02-031

Statutory authority: 24-A MRS §§ 212, 4303-A

Chapter number/title: Ch. 380, Provider Profiling Disclosures (New)

Filing number: 2016-036 **Effective date**: 3/12/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

Title 24-A MRS §4303-A(6) requires the Bureau to adopt rule to implement that statutory section. Section 4303-A requires health carriers to disclose to health care provider the data utilized by the carriers in making determinations regarding provider profiling programs utilized by the carriers. The carriers are further required by the statute to provide an appeals process for aggrieved providers.

Basis statement:

Ch. 380 has been adopted pursuant to the Notice of Rule-making published on August 28, 2015. A public hearing was convened on September 29, 2015 and the public comment period was held open until October 13, 2015. The initial development of this rule was also informed by an interested parties meeting at the Bureau of Insurance on April 4, 2014.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Insurance

Umbrella-Unit: 02-031

Statutory authority: 24-A MRS §§ 212, 222

Chapter number/title: Ch. 180, Insurance Holding Company System Model Rule

Filing number: 2016-037 **Effective date**: 3/11/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The changes reflect statutory changes enacted by 2013 PL ch. 238 and track the current *National Association of Insurance Commissioners (NAIC) Model Act and Regulation*. These changes are necessary to allow the Bureau to maintain its national accreditation.

Basis statement:

The Superintendent of Insurance hereby amends Bureau of Insurance Rule 180, Insurance Holding Company System Model Rule, pursuant to 24 A MRSA §§ 212 and 222(18), in order to incorporate changes to the Maine Holding Company Act, 24-A MRSA §222, and the "Model Holding Company Regulation" promulgated by the National Association of Insurance Commissioners (NAIC), and to maintain the Bureau's compliance with NAIC accreditation standards. The amendments have been adopted substantially as proposed, with a few technical changes in response to comments and to correct internal inconsistencies and drafting errors in the proposed amendments. A redlined comparison of the existing rule, the proposed amendments, and the adopted amendments appears at the end of this Basis Statement, following a section-by-section summary of comments with the Bureau's responses.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Insurance

Umbrella-Unit: 02-031

Statutory authority: 24-A MRS §§ 212, 1449

Chapter number/title: Ch. 540 (New), Premium Trust Account Fiduciary Duties

Filing number: 2016-052 Effective date: 4/3/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

Current Maine law requires insurance producers to handle insurance premiums and return premiums in a fiduciary capacity, but provides no specific guidance as what this requirement entails. This rule is intended to provide that guidance.

Basis statement:

The purpose of the rule is to set forth specific minimum standards and requirements regarding the fiduciary obligations of insurance producers. Current State statute requires insurance producers to handle insurance premiums in a fiduciary manner but provides no specific guidance as to what this entails. The rule requires that funds be held in trust accounts in qualifying financial institutions, segregated from personal and business operating accounts of the producer. The rule limits access to these accounts and sets standards relating to trust account deposits and withdrawals. Last, the rule establishes recordkeeping requirements relating to premium trust funds held by producers.

Fiscal impact of rule:

This rule has no fiscal impact on state government. The Bureau of Insurance anticipates that the rule will have little impact on most insurance producers who already operate in accord with its provisions. Some producers may need to an additional bank account and keep better records regarding other people's monies that are in their possession.

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Insurance

Umbrella-Unit: 02-031

Statutory authority: Title 24 MRS §2321, Title 24-A MRS §§ 212, 405-A(2)(E), 2413,

2736, 2736-C, 2808-B, 2839, 4207, 4309-A

Chapter number/title: Ch. 940, Requirements for Health Insurance Rate Filings and

Data Reporting

Filing number: 2016-069 Effective date: 4/19/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The amendments update the current rule for consistency with *Affordable Care Act* requirements and procedures.

Basis statement:

The Superintendent of Insurance held a public hearing on November 3, 2015 to consider proposed amendments to Maine Insurance Rule Ch. 940, *Requirements for Health Insurance Rate Filings and Data Reporting*. Notice of this hearing was provided to interested persons on October 6, 2015, and notice of the hearing appeared in the State of Maine's consolidated rule-making notice in newspapers of general circulation on October 14, 2015. A written comment period remained open following the hearing until November 16, 2015. The stated purpose of the proposed amendments is to update the current rule for consistency with *Affordable Care Act* requirements and procedures.

No members of the public provided comments at the public hearing. Written comments were received during the comment period from Kristine Ossenfort, Director of Government Relations for Anthem Blue Cross/Blue Shield.

Anthem commented on Sections 4, 8, 9, 12 and 13 of the proposed amendments.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Bureau of Insurance

Umbrella-Unit: 02-031

Statutory authority: 24-A MRS §§ 212, 953-A, 957

Chapter number/title: Ch. 830, Valuation of Life Insurance Policies

Filing number: 2016-133 Effective date: 8/8/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of these amendments is to adopt the 2009 amendments to the *National Association of Insurance Commissioners (NAIC) Model Regulation* which removes former restrictions on the experience factors life insurers use to determine reserves for certain types of policies. In connection with this change, an annual actuarial statement as to the impact of any insufficiency of assets to support the payment of benefits and expenses and the establishment of reserves is required.

Basis statement:

Per notice of rule-making without hearing dated February 17, 2016 and issued on February 18, 2016, the Superintendent of Insurance proposed amendments to Maine Insurance Rule Ch. 830, *Valuation of Life Insurance Policies*. Notice of this rule-making was also published in the Secretary of State's consolidated rule-making ad in newspapers of general circulation on February 24, 2016. A written comment period remained open following the hearing until March 31, 2016. The stated purpose of the amendments is to adopt the 2009 amendments to the *National Association of Insurance Commissioners (NAIC) Model Regulation* which removes former restrictions on the experience factors life insurers use to determine reserves for certain types of life insurance policies. In connection with this change, an annual actuarial statement as to the impact of any insufficiency of assets to support the payment of benefits and expenses is required.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Office of Securities

Umbrella-Unit: 02-032

Statutory authority: 32 MRS §§ 16302, 16605

Chapter number/title: Ch. 528, Federal "Regulation A" Tier 2 Notice Filings and Fees

Filing number: 2016-022 **Effective date**: 2/15/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of this rule is to provide transparency in the securities offerings made in Maine under Tier 2 of federal "Regulation A" (17 CFR §§ 230.251 - 230.263). The rule would enhance investor protection in Maine by providing potential investors with easier access to information about the securities offerings through the Office of Securities. In addition, increased transparency would allow the Office of Securities to more effectively fulfill its investigative and enforcement authorities under Regulation A. The rule will accomplish this purpose by requiring notice filings and fees when Tier 2 securities are offered in Maine.

Basis statement:

Ch. 528 establishes notice filing requirements and filing fees for securities offerings made under the newly implemented Tier 2 of federal Regulation A (17 CFR §§ 230.251 - 230.263). Under the *Securities Act of 1933* and federal regulations, each state has jurisdiction to investigate violations, bring enforcement actions, and to require notice filings and fees for Tier 2 offerings made in the state.

The adopted rule provides transparency in securities offerings made in Maine under Tier 2 of federal Regulation A and enhances investor protection by providing investors in Maine with easier access to information about these securities offerings. In addition, increased transparency allows the Office of Securities to more effectively fulfill its investigative and enforcement authorities under Regulation A.

Fiscal impact of rule:

The initial and renewal fees associated with filings under this rule are \$1,000.00. These are the same fees issuers previously paid to register securities under Regulation A in Maine. Because recent changes to Regulation A are designed to increase its use, a minor revenue increase to the General Fund is expected. The staff time associated with processing the additional notice filings and pursuing the Office's oversight duties is expected to result in a minor cost increase against the Office's Other Special Revenue Funds. Any additional revenue collected and costs incurred by the Office of Securities in the Department of Professional and Financial Regulation are expected to be minor, and the costs can be absorbed within existing budgeted resources.

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Office of Professional and Occupational Regulation

Umbrella-Unit: 02-041

Statutory authority: 10 MRS §8003(2-A)(D). Also, many agencies and their particular

statutes are represented.

Chapter number/title: Ch. 10, Establishment of License Fees

Filing number: **2016-003**Effective date: 1/16/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

Financial projections showed that reductions in certain license fees and elimination of some application fees were feasible and advisable for the following programs:

- Board of Accountancy
- American Sign Language, English Interpreters and Transliterators
- Charitable Solicitations
- Board of Chiropractic Licensure
- Board of Complementary Health Care Providers
- Board of Licensure for Professional Land Surveyors
- Manufactured Housing Board
- Board of Pharmacy
- Board of Respiratory Care Practitioners
- State Board of Veterinary Medicine

Additionally, in order to update the rule, other necessary changes were made to the fees for Charitable Solicitations, the Board of Licensure of Foresters, the Board of Funeral Service, and the Board of Social Worker Licensure.

Basis statement:

Title 10 MRS §8003(2-A)(D) authorizes the Director of the Office of Professional and Occupational Regulation ("OPOR") to establish by rule all fees necessary and appropriate for regulatory programs within the office. Fees must be adequate to sustain the operations of regulatory programs on an ongoing basis. Fee reductions are appropriate when ongoing and projected revenues exceed current and anticipated regulatory expenses.

Financial projections showed that overall reductions in license fees were feasible for the following programs:

- Board of Accountancy
- American Sign Language, English Interpreters and Transliterators
- Charitable Solicitations
- Board of Chiropractic Licensure
- Board of Complementary Health Care Providers
- Board of Licensure for Professional Land Surveyors
- Manufactured Housing Board
- Board of Pharmacy
- Board of Respiratory Care Practitioners
- State Board of Veterinary Medicine

Accordingly, the Director reduced various license fees and eliminated some application fees applicable to these programs, as shown in the rule. The overall impact of these changes is that fees will be lower for many applicants and licensees of these programs.

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Additionally, in order to update the rule overall, the Director made the following amendments: (1) for Charitable Solicitations, eliminated references to Exempt Organization and Fund raising Counsel due to statutory changes implemented by PL 2013, c. 313; (2) for the Board of Licensure of Foresters, replaced the \$75 examination fee with a reference to third party because exams are administered and scored by a third party, the Society of American Foresters ("SAF"), and the applicant pays the fee directly to SAF at the time of registration; (3) for the Board of Funeral Service, added a new fee category for temporary practitioner of funeral service, which is a new license implemented by PL 2015, c. 246 that requires a fee; and (4) for the Board of Social Worker Licensure, added a new fee category for Inactive Status License because the board's statute provides that an inactive status license has a 1-year term, whereas an active license has a 2-year term.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Office of Professional and Occupational Regulation

Umbrella-Unit: 02-041

Statutory authority: 5 MRS §9001(4); 10 MRS §§ 8003(5-A)(A), 8003-E; 32 MRS

§§ 14202(13), 14212-A(2), 14228(3), 14231, 14232(3), 14233,

14234, 14236-A, 14246

Chapter numbers/titles: Ch. 20, Definitions and References

Ch. 21, Licensure of Aestheticians, Barbers, Cosmetologists, Limited Barbers and Nail Technologists

Ch. 22, Licensure of Demonstrators

Ch. 23, Trainee Aesthetician, Barber, Cosmetologist, Limited Barber and Nail Technologist

Ch. 24, Licensure of Instructors

Ch. 25, Licensure of Establishments And Independent Booths

Ch. 26, Establishment, Independent Booth and School Operation, Sanitation and Infection Control Standards, and Safe Practice Procedures

Ch. 27, Rules for Licensure and Operation of Schools Offering One or More Courses of Study in Aesthetics, Barbering, Cosmetology, Limited Barbering, Nail Technology, and Instructing: sub-ch. 1, Definitions; sub-ch. 2, Application and Licensing; sub-ch. 3, School Operation, Course of Study, Health, Sanitation and Safety

Ch. 28, Special Event Services Permit

Ch. 29, Grounds For Discipline

Ch. 30, Citations

Filing numbers: 2016-214 thru 224

Effective date: 12/11/2016

Type of rule: 12/11/2016

Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes implemented by PL 2009 c. 369, which notably eliminated the Board of Barbering and Cosmetology and created the Barbering and Cosmetology Licensing Program administered by the Director of the Office of Professional and Occupational Regulation, as well as PL 2011 c. 286.

Basis statement:

The rules reflect statutory changes by PL 2009 c. 369, which eliminated the Board of Barbering and Cosmetology and established the Barbering and Cosmetology Licensing Program administered by the Director of the Office of Professional and Occupational Regulation. The rules also reflect statutory changes enacted as PL 2011 c. 286 which established a limited barber license category. Because of the breadth of the statutory changes, the Director repeals and replaces existing rules.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Board of Licensure in Medicine

Umbrella-Unit: 02-373

Statutory authority: 32 MRS §§ 13720, 13846 (Board of Pharmacy), 32 MRS §3269(3),

(7) (Board of Licensure in Medicine)

Chapter number/title: Ch. 5 (*New*), Collaborative Drug Therapy Management (a joint rule

with 02-392 - Board of Pharmacy (Ch. 39))

Filing number: 2016-040 Effective date: 3/14/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To set forth rules authorized by PL 2013, c. 308, *An Act to Allow Collaborative Practice Agreements between Authorized Practitioners and Pharmacists*.

Basis statement:

In accordance with PL 2013 ch. 308, *An Act to Allow Collaborative Practice Agreements between Authorized Practitioners and Pharmacists*, the Board of Pharmacy and the Board of Licensure in Medicine ("Boards"), after consultation with the Department of Health and Human Services, adopted this joint rule. The rule is comprised of the following sections:

Section 1 defines various significant terms used in the rule. Notably, this section defines the term "qualifying condition" using the language of the statute "conditions or diseases with generally accepted standards of care." The definition of "qualifying condition" also provides a list of recognized examples. The list is intended only to provide examples and is not exclusive. See 32 MRS §§ 13702-A, 13844(1), and 13845.

Section 2 provides that a pharmacist must submit an application to the Board of Pharmacy and must meet the qualifications set forth in statute in order to enter into a collaborative practice agreement with a practitioner. The qualifications include completing certain continuing education hours prior to application and in each year of a collaborative practice agreement thereafter. These continuing education requirements are set forth in statute. This section also provides that the pharmacist must submit to both the Board of Pharmacy and the board that licenses the practitioner a copy of the collaborative practice agreement, which includes a copy of the required treatment protocol. See 32 MRS §§ 13735, 13842, and 13843(1).

Section 3 provides that a collaborative practice agreement may authorize collaborative drug therapy management only for qualifying conditions, as set forth in statute, and also provides the specific content that a collaborative practice agreement must include. The content criteria in subsections 1 - 9 reiterate the minimum requirements set forth in statute. Subsections 10 - 13 set forth additional requirements. See 32 MRS §§ 13843(5), (6) and 13844(1).

Section 4 provides the minimum content requirements for a treatment protocol. A treatment protocol must specify and describe informed consent procedures, the pharmacist's scope of activities, documentation requirements, and reporting procedures. In addition, a treatment protocol must set forth a provision that allows the practitioner to override a decision made by the pharmacist when appropriate, as well as a provision that provides for periodic review and revision of the drug therapy management. See 32 MRS §§ 13843(2), 13845, and 13846.

Section 5 requires the pharmacist to notify the Board of Pharmacy and the board that licenses the practitioner no later than 10 days after any modification to a collaborative practice

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

agreement or treatment protocol, or any change in liability insurance.

Section 6 requires the pharmacist to comply with the record retention and production requirements set forth in Ch. 24 of the Board of Pharmacy rules for any records received or created by the pharmacist pursuant to this rule.

Section 7 provides that the Board of Pharmacy or the licensing board that licenses the practitioner may share complaint and investigative information related to a collaborative practice agreement as permitted by 10 MRS §8003-8(2).

Section 8 sets forth that any party to a collaborative practice agreement has a duty to report disciplinary action. This section also provides that the Board of Pharmacy and the Board of Licensure in Medicine must notify each other of any disciplinary action taken against a party to a collaborative practice agreement.

With this rule, the Boards seek to ensure safe and effective collaborative practice agreements between a pharmacist and practitioner.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Board of Licensure in Medicine

Umbrella-Unit: 02-373

Statutory authority: 32 MRS §§ 3269(7), 3270-E (Board of Licensure in Medicine);

32 MRS §§ 2562, 2594-E (Board of Osteopathic Licensure

Chapter number/title: Ch. 2 (Repeal and replace), Joint Rule Regarding Physician

Assistants (a joint rule with 02-383 – Board of Osteopathic Licensure)

Filing number: 2016-122 Effective date: 7/18/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To establish a uniform rule for licensing and regulating physician assistants as authorized and required by PL 2015 c. 242, as amended, *An Act to Eliminate the Dual Licensing of Physician Assistants*.

Basis statement:

In accordance with PL 2015 c. 242, *An Act to Eliminate the Dual Licensing of Physician Assistants*, the Board of Licensure in Medicine (BOLIM) and the Board of Osteopathic Licensure (BOL), after consultation with stakeholders and interested parties, proposed this joint rule on December 23, 2015. The rule establishes: uniform qualifications to practice, including licensure, re-licensure, and registration; uniform fees; uniform scope of practice, including Schedule II prescribing privileges; uniform standards for physician supervision of physician assistants; uniform elements for written plans of supervision; uniform notification requirements; uniform identification requirements; and a joint physician assistant advisory committee.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Board of Licensure in Medicine

Umbrella-Unit: 02-373

Statutory authority: 32 MRS §§ 3269(7), 3269(7)

Chapter number/title: Ch. 6 (New), Telemedicine Standards of Practice (a joint rule with

02-383 – Board of Osteopathic Licensure)

Filing number: 2016-209
Effective date: 12/10/2016
Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To establish standards for the practice of medicine using telemedicine in providing health care.

Basis statement:

This is a new joint rule regarding telemedicine in Maine, which consists of three sections: Section 1 sets out a statement of the boards' regarding telemedicine.

Section 2 defines terms used throughout the rule.

Section 3 establishes telemedicine guidelines, including:

- Requirement for a Maine medical license or registration
- Standards of Care and Professional Ethics
- Identification (Physician and Patient) Requirements
- Physician-Patient Relationship
- Medical History and Physical Examination
- Informed Consent
- Coordination of Care
- Follow up Services
- Emergency Services
- Medical Records
- Technology and Equipment
- Disclosure Requirements
- · Patient Access and Feedback
- Prescribing

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Board of Osteopathic Licensure

Umbrella-Unit: 02-383

Statutory authority: 32 MRS §§ 3269(7), 3270-E (Board of Licensure in Medicine);

32 MRS §§ 2562, 2594-E (Board of Osteopathic Licensure

Chapter number/title: Ch. 2 (Repeal and replace), Joint Rule Regarding Physician

Assistants (a joint rule with 02-373 – Board of Licensure in Medicine)

Filing number: 2016-123 Effective date: 7/18/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To establish a uniform rule for licensing and regulating physician assistants as authorized and required by PL 2015 c. 242, as amended, *An Act to Eliminate the Dual Licensing of Physician Assistants*.

Basis statement:

In accordance with PL 2015 c. 242, *An Act to Eliminate the Dual Licensing of Physician Assistants*, the Board of Licensure in Medicine (BOLIM) and the Board of Osteopathic Licensure (BOL), after consultation with stakeholders and interested parties, proposed this joint rule on December 23, 2015. The rule establishes: uniform qualifications to practice, including licensure, re-licensure, and registration; uniform fees; uniform scope of practice, including Schedule II prescribing privileges; uniform standards for physician supervision of physician assistants; uniform elements for written plans of supervision; uniform notification requirements; uniform identification requirements; and a joint physician assistant advisory committee.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Board of Osteopathic Licensure

Umbrella-Unit: 02-383

Statutory authority: 32 MRS §2562

Chapter number/title: Ch. 6 (New), Telemedicine Standards of Practice (a joint rule with

02-373 – Board of Licensure in Medicine)

Filing number: 2016-210

Effective date: 12/10/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To establish standards for the practice of medicine using telemedicine in providing health care.

Basis statement:

This is a new joint rule regarding telemedicine in Maine, which consists of three sections: Section 1 sets out a statement of the boards' regarding telemedicine.

Section 2 defines terms used throughout the rule.

Section 3 establishes telemedicine guidelines, including:

- Requirement for a Maine medical license or registration
- Standards of Care and Professional Ethics
- Identification (Physician and Patient) Requirements
- Physician-Patient Relationship
- Medical History and Physical Examination
- Informed Consent
- Coordination of Care
- Follow up Services
- Emergency Services
- Medical Records
- Technology and Equipment
- Disclosure Requirements
- · Patient Access and Feedback
- Prescribing

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Board of Pharmacy

Umbrella-Unit: 02-392

Statutory authority: 32 MRS §§ 13720, 13846 (Board of Pharmacy), 32 MRS §3269(3),

(7) (Board of Licensure in Medicine)

Chapter number/title: Ch. 5 (New), Collaborative Drug Therapy Management (a joint rule

with 02-373 - Board of Licensure in Medicine (Ch. 5))

Filing number: 2016-041 Effective date: 3/14/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To set forth rules authorized by PL 2013, c. 308, *An Act to Allow Collaborative Practice Agreements between Authorized Practitioners and Pharmacists*.

Basis statement:

In accordance with PL 2013 ch. 308, *An Act to Allow Collaborative Practice Agreements between Authorized Practitioners and Pharmacists*, the Board of Pharmacy and the Board of Licensure in Medicine ("Boards"), after consultation with the Department of Health and Human Services, adopted this joint rule. The rule is comprised of the following sections:

Section 1 defines various significant terms used in the rule. Notably, this section defines the term "qualifying condition" using the language of the statute "conditions or diseases with generally accepted standards of care." The definition of "qualifying condition" also provides a list of recognized examples. The list is intended only to provide examples and is not exclusive. See 32 MRS §§ 13702-A, 13844(1), and 13845.

Section 2 provides that a pharmacist must submit an application to the Board of Pharmacy and must meet the qualifications set forth in statute in order to enter into a collaborative practice agreement with a practitioner. The qualifications include completing certain continuing education hours prior to application and in each year of a collaborative practice agreement thereafter. These continuing education requirements are set forth in statute. This section also provides that the pharmacist must submit to both the Board of Pharmacy and the board that licenses the practitioner a copy of the collaborative practice agreement, which includes a copy of the required treatment protocol. See 32 MRS §§ 13735, 13842, and 13843(1).

Section 3 provides that a collaborative practice agreement may authorize collaborative drug therapy management only for qualifying conditions, as set forth in statute, and also provides the specific content that a collaborative practice agreement must include. The content criteria in subsections 1 - 9 reiterate the minimum requirements set forth in statute. Subsections 10 - 13 set forth additional requirements. See 32 MRS §§ 13843(5), (6) and 13844(1).

Section 4 provides the minimum content requirements for a treatment protocol. A treatment protocol must specify and describe informed consent procedures, the pharmacist's scope of activities, documentation requirements, and reporting procedures. In addition, a treatment protocol must set forth a provision that allows the practitioner to override a decision made by the pharmacist when appropriate, as well as a provision that provides for periodic review and revision of the drug therapy management. See 32 MRS §§ 13843(2), 13845, and 13846.

Section 5 requires the pharmacist to notify the Board of Pharmacy and the board that licenses the practitioner no later than 10 days after any modification to a collaborative practice

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

agreement or treatment protocol, or any change in liability insurance.

Section 6 requires the pharmacist to comply with the record retention and production requirements set forth in Ch. 24 of the Board of Pharmacy rules for any records received or created by the pharmacist pursuant to this rule.

Section 7 provides that the Board of Pharmacy or the licensing board that licenses the practitioner may share complaint and investigative information related to a collaborative practice agreement as permitted by 10 MRS §8003-8(2).

Section 8 sets forth that any party to a collaborative practice agreement has a duty to report disciplinary action. This section also provides that the Board of Pharmacy and the Board of Licensure in Medicine must notify each other of any disciplinary action taken against a party to a collaborative practice agreement.

With this rule, the Boards seek to ensure safe and effective collaborative practice agreements between a pharmacist and practitioner.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Plumbers' Examining Board

Umbrella-Unit: 02-395

Statutory authority: 32 MRS §3403-B(1)

Chapter number/title: Ch. 4, Installation Standards

Filing number: 2016-145 **Effective date**: 10/1/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To update the edition of the plumbing code that has been incorporated by reference into the rule.

Basis statement:

Through PL 1997, c. 727, sections C-4 and C-9, the Maine Legislature transferred the responsibility for adopting a statewide plumbing code from the Department of Health and Human Services to the Plumbers' Examining Board ("Board"). Subsequently, through PL 2001, c. 215, section 1, the Legislature revised this rule-making authority to state that "the adoption of a national or international plumbing code as a new plumbing code for the State constitutes a major substantive rule and must receive affirmative action by the Legislature before adoption." 32 MRS §3403-8(1).

After these legislative changes, the Board was faced with the decision of whether to revise the existing code or to consider adopting of one of the two competing national codes: the *International Plumbing Code* ("IPC"), developed by the Building Official and Code Administrators International ("BOCA"); or the *Uniform Plumbing Code* ("UPC"), developed by the International Association of Plumbing and Mechanical Officials ("IAPMO"). The Board made the initial determination that it did not have the resources to develop a Maine-specific code. Thus, the Board decided to adopt one of the two national codes. In order to obtain input from all interested parties on the codes, the Board conducted a series of regional public meetings, heard from the public during regularly-scheduled board meetings, convened a working group, and accepted testimony and comment from the public through a rule-making proceeding.

After thorough consideration of both codes, the Board made the decision to provisionally adopt a specially-prepared Maine version of the 2000 edition of the UPC. As this was a new plumbing code for the State, legislative approval was required under the Board's revised rulemaking authority. The Legislature approved-the Board's adoption of the UPC in 2005.

In 2010, the Board adopted the 2009 edition of the UPC with specific modifications to account for Maine conditions, rather than a specially prepared, Maine-specific version of the UPC. Adoption of the 2009 edition did not require legislative approval, as the Board was not adopting a new plumbing code for the State that would constitute a major substantive rule.

The 2009 edition has remained in effect since then without change. In the meantime, IAPMO revised the UPC in 2012 and 2015. In early 2015, the Board determined that the 2015 edition of the UPC represented best plumbing practice and merited implementation in Maine. In 2016, the Board proposed to adopt the 2015 edition, again with specific modifications to account for Maine conditions. As was the case previously, the proposed adoption did not require legislative approval, as the UPC is not a new plumbing code for the State.

Notably, the 2015 edition lists new products and materials, expands horizontal wet venting, requires fewer fixtures in public buildings, revises lead-content provisions to address the minimum acceptable percentage lead content for pipes and fittings, and allows engineers

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

to design systems that meet accepted engineering practice. New plumbing products and materials in particular are critical to keeping the cost of labor and materials at current levels.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Office of Professional and Occupational Regulation,

Board of Social Worker Licensure

Umbrella-Unit: 02-416

Statutory authority: 32 MRS §§ 7030(2), 7060

Chapter number/title: Ch. 13, Licensure

Filing number: 2016-007 Effective date: 1/25/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To update the inactive status license rule in accordance with statutory changes set forth by PL 2007, c. 402.

Basis statement:

In 2007, legislation amended the Board's statute regarding inactive status licensure (see PL 2007, c. 402 amending 32 MRS §7060). At that time, however, the Board did not amend its rules on inactive status licensure (adopted in 2004) to correspond with this statutory change.

In this rule-making, the Board amended its rules on inactive status licensure in order to align the rules with the current statute. The rules previously stated that a licensee did not need to apply for any license renewal while on inactive status. However, the statute requires that the holder of an inactive status license renew the license annually and pay a renewal fee. The Board therefore amended the rules by setting forth requirements for annual renewal of an inactive status license.

In addition, the rules previously stated that a licensee on inactive status must continue to meet the requirements for continuing education contained in Ch. 14 of the Board's rules. However, the statute provides that the holder of an inactive status license does not need to obtain these continuing education hours. The Board amended the rules accordingly. The Board did, however, add the requirement that a licensee on inactive status who wishes to return to active status obtain some continuing education before returning to active status. This requirement is intended to ensure that licensees who have been on inactive status are up-to-date on their knowledge of the profession before returning to practice. The amended rules also contain an exception to this continuing education requirement for certain licensees who wish to return to active status after less than a year on inactive status.

Fiscal impact of rule:

Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,

Office of Professional and Occupational Regulation,

Board of Social Worker Licensure

Umbrella-Unit: 02-416

Statutory authority: 32 MRS §7030(2)

Chapter number/title: Ch. 17, Record Retention Requirements (New)

Filing number: 2016-008 **Effective date**: 1/25/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To define licensee obligations for retaining client records.

Basis statement:

In this rule-making, the Board adopted a new rule chapter that sets forth a licensee's obligations for retaining client records. The Board determined that it only needed to provide record retention requirements for licensees that are engaged in private practice, which is defined in Board statute as "practicing social work on a self-employed basis." 32 MRS §7001-A(9). This is because licensees that are employed or affiliated with agencies or other institutions must already abide by the record retention requirements of those agencies or institutions, and additional requirements imposed by the Board would be redundant, and in all likelihood, would unnecessarily complicate and confuse the record retentions systems already in place for these licensees.

In developing the record retention requirements for licensees that are engaged in private practice, the Board considered many sources of information, as detailed in the Rulemaking Fact Sheet. The Board set a general record retention period of 7 years after a client's last date of service or date of death, as well as two exceptions to the general rule, one for minor clients and another for clients involved in litigation in which the client's records may be relevant. The Board concluded that these record retention periods are common among many states and agencies and are also consistent with the rules set forth by Maine's Department of Health and Human Services for hospitals and long term care facilities.

The rule also sets forth that client records may be destroyed after the applicable record retention period has expired and provides the manner in which the records must be destroyed. Rules pertaining to record destruction are necessary to ensure that records are being disposed of in a secure manner. Finally, the rule sets forth a continuing obligation after licensure ends to retain client records generated in the course of private practice in accordance with the rules in order to make it clear that former licensees are still responsible for records created while licensed.

Fiscal impact of rule: