

22 M.R.S.A. Subt. 6, Ch. 1661, Refs & Annos

22 M.R.S.A. § 7701

§ 7701. Definitions

22 M.R.S.A. § 7702

§ 7702. Repealed. Laws 1999, c. 363, § 2

22 M.R.S.A. § 7702-A

§ 7702-A. Violations; penalties

Effective: August 23, 2006

**1. Criminal penalties.** Except as otherwise provided by law, a person who violates any provision of this subtitle commits a Class E crime.

**2. Civil penalties.** The following penalties apply to the following violations:

**A.** A person who violates section 7703 or 8603 or rules adopted pursuant to those sections commits a civil violation for which a fine of not more than \$500 may be adjudged.

**B.** A person who violates rules governing child-to-staff ratios adopted under section 8302-A, subsection 1, paragraph A or subsection 2, paragraph G commits a civil violation for which a fine of not more than \$500 per incident or \$500 per number of children above the limitation set by rule, or both, may be adjudged.

**3. Licensure provisions.** A person who violates the following sections or rules adopted pursuant to those sections is subject to the sanctions provided for under the rules of licensure applicable to the facility, child care facility or family child care provider:

**A.** Section 7801, subsection 1, paragraph A;

**B.** Section 8301-A; or

**C.** Section 8302-A, subsection 1, paragraphs B to I and subsection 2, paragraphs A to F and H to J.

**4. Dedicated funds.** Fines and forfeitures adjudged under this section are payable to the Purchased Social Services Other Special Revenue account.

**1. Children.** As used in this subtitle, the word “children” means persons who are not related by blood or marriage Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

to, or who have not been legally adopted by, the licensee or administrator of any facility, defined in section 8101, 8201 or 8301-A, that provides services to these children.

**2. Facility.** As used in this subtitle, the word “facility” means any of the places defined in section 8001, 8101, 8201 or 8301-A, subsection 1-A, paragraph B.

**3. Abuse or neglect.** For purposes of section 7703, “abuse or neglect,” in the case of children refers to the definition found in section 4002, subsection 1. In the case of adults, “abuse” and “neglect” refers to the definitions found in section 3472, subsections 1 and 11, and also incorporates exploitation, as defined in section 3472, subsection 9.

22 M.R.S.A. § 7702-B

§ 7702-B. Operating without a license or certificate; violations; penalties

Effective: June 19, 2007

**1. License or certificate required.** A person, firm, partnership, association, corporation or other entity may not, without first obtaining a license:

A. Manage or operate a long-term care facility as defined in chapter 1666-B;

B. Operate a child care facility as defined in section 8301-A, subsection 1-A, paragraph B; or

C. Operate as a family child care provider as defined in section 8301-A, subsection 1-A, paragraph C.

**2. Civil penalties.** A person, firm, partnership, association, corporation or other entity who violates subsection 1 commits a civil violation and is subject to a civil penalty of not less than \$500 nor more than \$10,000 per day. Each day of violation constitutes a separate offense.

**3. Injunctive relief.** Notwithstanding any other remedies provided by law, the Office of the Attorney General may seek an injunction to require compliance with the provisions of subsection 1.

**4. Enforcement.** The Office of the Attorney General may file a complaint with the District Court seeking civil penalties or injunctive relief or both for violations of subsection 1.

**5. Jurisdiction.** The District Court has jurisdiction pursuant to Title 4, section 152 for violations of subsection 1.

**6. Burden of proof.** The burden is on the department to prove, by a preponderance of the evidence, that the alleged violations of subsection 1 occurred.

**7. Right of entry.** To inspect the premises of a long-term care facility, child care facility or family child care provider that the department knows or believes is being operated without a license or certificate, the department may

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

enter only with the permission of the owner or person in charge or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court, authorizing entry and inspection.

**8. Administrative inspection warrant.** The department and a duly designated officer or employee of the department have the right to enter upon and into the premises of an unlicensed long-term care facility or child care facility or an uncertified family child care provider with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court at a reasonable time and, upon demand, have the right to inspect and copy any books, accounts, papers, records and other documents in order to determine the state of compliance with subsection 1. Pursuant to the Maine Rules of Civil Procedure, Rule 80E the department's right of entry and inspection may extend to any premises and documents of a person, firm, partnership, association, corporation or other entity that the department has reason to believe is operating without a license or a certificate.

**9. Noninterference.** An owner or person in charge of an unlicensed long-term care facility or child care facility or an uncertified family child care provider may not interfere with or prohibit the interviewing by the department of residents or consumers of services.

**10. Violation of injunction.** A person, firm, partnership, association, corporation or other entity that violates the terms of an injunction issued under this section shall pay to the State a fine of not less than \$500 nor more than \$10,000 for each violation. Each day of violation constitutes a separate offense. In an action brought by the Office of the Attorney General against a person, firm, partnership, association, corporation or other entity for violating the terms of an injunction under this section, the District Court may make the necessary orders or judgments regarding violation of the terms of the injunction.

In an action under this section, when a permanent injunction has been issued, the District Court may order the person, firm, partnership, association, corporation or other entity against which the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person, firm, partnership, association, corporation or other entity by the Office of the Attorney General and the costs of suit, including attorney's fees.

**11. Rules.** The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>1</sup>

22 M.R.S.A. § 7703

§ 7703. Records; disclosure

Effective: June 19, 2007

**1. Records.** Except as otherwise provided by law and this section, any records that are made, acquired or retained by the department in connection with its responsibilities under this subtitle shall be available to the public.

**2. Confidential information.** Except as provided in subsections 3 and 4, confidential information may not be released without a court order or a written release from the person about whom the confidential information has been requested. The following information is confidential:

**A.** Information that identifies, directly or indirectly, a recipient of services of the facility, a client of the facility or the client's family or custodian, except when the family member or custodian is an owner or operator of the facility;

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

**B.** Notwithstanding sections 3474 and 4008, any information gathered in the course of an investigation of neglect or abuse, except a statement indicating whether or not a report of abuse or neglect has been received, the nature of the alleged abuse or neglect and the conclusion reached by the department, if any;

**C.** Information that identifies, directly or indirectly, a reference, complainant or reporter of suspected abuse or neglect;

**D.** Information pertaining to the adoption of an individual;

**E.** Information about the private life of a person, other than an owner, operator or employee of a facility, in which there is no legitimate public interest and that would be offensive to a reasonable person, if disclosed, except as provided in paragraph F;

**F.** Information about the private life of a person who has applied for a license or approval or is or has been licensed or approved as an adult foster home, licensed pursuant to chapter 1663, and family foster home as defined in section 8101, subsection 3, in which there is no legitimate public interest and that would be offensive to a reasonable person, if disclosed; and

**G.** Information that identifies, directly or indirectly, a reference, complainant or reporter of suspected licensing violations.

Within the department, confidential information must be available to and used by appropriate departmental personnel and legal counsel in carrying out their various functions. Nothing in this section may prevent the release of statistical information regarding the population of the facility by diagnosis or other classification, as long as it does not directly or indirectly identify the clients or recipients of services of the facility.

**3. Optional disclosure of confidential information.** Relevant information made confidential by subsection 2 may be released to the following:

**A.** An agency investigating a report of child or adult abuse or neglect when the investigation is authorized by law or by an agreement with the department;

**B.** A physician treating a child or adult whom he reasonably suspects may be abused or neglected;

**C.** A person, the parent or guardian of a minor, or the guardian of an incapacitated adult named in a record, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected when appropriate;

**D.** A person having the legal responsibility or authorization to educate, care for, evaluate, treat or supervise a client or recipient of services of the facility. This shall include a member of a treatment team or group convened to plan for or treat a person named in a record, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected, when appropriate;

**E.** Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the research and the commissioner or his designee gives prior approval. If the

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

researcher desires to contact a subject of a record, the subject's consent shall be obtained by the department prior to the contact;

**F.** Any agency involved in approving homes for the placement of children, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected, when appropriate;

**G.** An individual seeking to place a child or adult in a particular facility with protection for the identity of any reference, complainant, reporter of suspected abuse or neglect or other person, when appropriate;

**H.** An owner or operator of a facility which is the subject of a record, provided that the identity of any reference, complainant, reporter of suspected abuse or neglect or other person is protected, when appropriate; or

**I.** Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857.<sup>1</sup>

**4. Mandatory disclosure of confidential information.** The department shall disclose relevant information in the records made confidential by subsection 2 to the following persons:

**A.** The guardian ad litem of a child or adult named in a record who is reported to be abused or neglected;

**B.** A law enforcement agency investigating a report of child or adult abuse or neglect or the commission of a crime by an owner, operator or employee of a facility against a client or recipient of services of the facility;

**C.** A court on its finding that access to those records may be necessary for the determination of any issue before the court. Access shall be limited to in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before it;

**D.** A grand jury on its determination that access to those records is necessary in the conduct of its official business;

**E.** An appropriate state executive or legislative official with responsibility for adult or child protection services in carrying out his official functions, provided that no personally identifying information may be made available unless necessary to his functions;

**F.** The Protection and Advocacy Agency for the Developmentally Disabled in Maine in connection with investigations conducted in accordance with Title 5, chapter 511.<sup>2</sup> The determination of what information and records are relevant to the investigation must be made by agreement between the department and the agency; and

**G.** The Commissioner of Education, when the information concerns teachers and other professional personnel issued certificates under Title 20-A.

**5. Dissemination of confidential information.** Information released pursuant to subsections 3 and 4 shall be used solely for the purpose for which it was provided and shall not be further disseminated.

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

**6. Rules.** The department may adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>3</sup>

**22 M.R.S.A. § 7704**

**§ 7704. Processing fee**

**Effective: July 12, 2010**

Beginning October 1, 2010, a facility, health care provider or program subject to the licensing or certification processes of chapter 1663, 1664, 1667, 1669, 1671 or 1673; a nursery school subject to chapter 1675; an adult day care program subject to chapter 1679; or a hospice provider subject to chapter 1681 shall pay a processing fee not to exceed \$10 to the department for the reissuance of a license or certificate when the licensee or certificate holder made changes that require the reissuance of a license or certificate.

The department may adopt rules necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>1</sup>

**22 M.R.S.A. § 7705**

**§ 7705. Transaction fee for electronic renewal of license**

**Effective: July 12, 2010**

The department may collect a transaction fee from providers renewing their licenses electronically under this subtitle. The fee may not exceed the cost of providing the electronic license renewal service. The department may adopt rules necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>1</sup>

**22 M.R.S.A. § 7706**

**§ 7706. Criminal background checks**

**Effective: October 1, 2010**

Beginning October 1, 2010, a facility or health care provider subject to the licensing or certification processes of chapter 1663,<sup>1</sup> a nursery school subject to chapter 1675<sup>2</sup> or a hospice provider subject to chapter 1681<sup>3</sup> shall obtain, prior to hiring an individual who will work in direct contact with a consumer, criminal history record information on that individual, including, at a minimum, criminal history record information from the Department of Public Safety, State Bureau of Identification. The entity seeking to employ the individual shall pay for the criminal background check required by this section.

The department may adopt rules necessary to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>4</sup>

**22 M.R.S.A. Subt. 6, Ch. 1663, Refs & Annos**

**22 M.R.S.A. § 7801**

**§ 7801. License or approval required**

**Effective: September 28, 2011**

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

**1. License required.** Except as provided in subsection 3 or section 7805, a person, firm, corporation or association may not operate any of the following without having, subject to this Subtitle and to the rules adopted by the department under this Subtitle, a written license from the department:

**A.** A residential care facility;

**A-1.** In accordance with subparagraphs (1) and (2), an assisted housing program either directly or by contract providing to its residents any of the following services: personal care assistance, the administration of medication or nursing services.

(1) An assisted housing program may directly provide to its residents meals, housekeeping and chore assistance, case management and personal care assistance delivered on the site of congregate housing without obtaining a separate license to do so.

(2) An assisted housing program licensee may hold at any one time only one license under this subsection. A qualified assisted housing program may obtain a license for a different category under this subsection, upon application and surrender of the previous license;

**B.** A drug treatment center;

**C.** A children's home;

**D.** A child placing agency;

**E.** A child care facility licensed under section 8301-A, subsection 2; or

**F.** Repealed. Laws 2001, c. 645, § 4.

**G.** An adult day care program.

**2. Deleted.** Laws 1985, c. 770, § 4.

**3. Residential care facilities.** A residential care facility providing care to no more than 2 residents is not required to obtain a license under subsection 1, unless the license is required for the residential care facilities to receive payment from available state funds. The department may issue 2-year licenses and conduct modified surveys for compliance of those facilities as long as the facilities have relatively deficiency-free surveys with no history of health or safety violations.

**4. Repealed.** Laws 1993, c. 661, § 4, eff. April 12, 1994.

**5. Residents under age of 18 years.** Notwithstanding any age requirement, a person who is 17 years of age or older may be a resident in an adult foster home or boarding home without the home being required to be licensed as a Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

children's home under chapter 1669 if the department determines that such a placement is in the best interests of that person.

**6. National accreditation.** A person, firm, corporation or association operating a program or facility described under subsection 1 that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this subsection in response to a complaint against the program or facility.

22 M.R.S.A. § 7802

§ 7802. Issuance of license or approval

Effective: October 9, 2013

**1. Types of license or approval.** The department shall issue the following types of licenses.

**A.** A provisional license or approval shall be issued by the department to an applicant who:

(1) Has not previously operated the facility for which the application is made or is licensed or approved but has not operated during the term of that license or approval;

(2) Complies with all applicable laws and rules, except those which can only be complied with once clients are served by the applicant; and

(3) Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license or approval term.

**B.** The department shall issue a full license or approval to an applicant who complies with all applicable laws and rules.

**C.** A conditional license or approval may be issued by the department when the individual or agency fails to comply with applicable law and rules and, in the judgment of the commissioner, the best interest of the public would be so served by issuing a conditional license or approval. The conditional license or approval shall specify when and what corrections must be made during the term of the conditional license or approval.

**D.** A temporary license to operate a family foster home may be issued on a one-time basis when a preliminary evaluation of the home by the department has determined that the applicants are capable of providing foster care, in accordance with applicable laws and rules relating to minimum standards of health, safety and well-being, except that it is not possible to obtain a fire safety inspection in accordance with section 8103 prior to licensure and there are no obvious fire safety violations and, in the judgment of the commissioner, the best interest of the public will be so served by issuing a temporary license.

**E.** A 2-year full license may be issued by the department for a residential care facility or a congregate housing Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

service program as long as it is in substantial compliance with licensing rules and has no history of health or safety violations.

**1-A. Consolidation of functions.** All staff performing general licensing functions within the Bureau of Child and Family Services, including the out-of-home abuse and neglect investigating team when investigating pursuant to section 5005, subsection 3, paragraph C, shall be consolidated as a single organizational unit.

**2. Term of license or approval; compliance visits.**

**A.** The provisional license or approval shall be issued for a minimum period of 3 months or a longer period, as deemed appropriate by the department, not to exceed 12 consecutive months.

**B.** The terms of full licenses or approvals are as follows.

(1) Except as provided in subparagraphs (2) to (7), the term of all full licenses and approvals issued pursuant to this chapter is for one year or the remaining period of a conditional or provisional license that has been issued for less than one year.

(2) The term of a children's residential care facility license is for 2 years.

(3) The term of a drug treatment center license may be for either one or 2 years.

(4) The term of a family foster home or specialized foster home license is for 2 years.

(5) The term of a child care facility license issued under section 8301-A, subsection 2 is for 2 years.

(6) The term of a home day care certificate issued under section 8301-A, subsection 3 is for 2 years.

(7) The term of an adult day care program license pursuant to chapter 1679 is for either one or 2 years at the discretion of the department.

**C.** The conditional license shall be issued for a specific period, not to exceed one year, or the remaining period of the previous full license, whichever the department determines appropriate based on the laws and rules violated.

**C-1.** The term of a temporary family foster home license shall be for a specific period not to exceed 120 days.

**D.** The department shall inspect for continued compliance with applicable laws and rules prior to the expiration of the license or approval.

**E.** Residential care facilities and congregate housing services programs for which a license has been issued must be periodically inspected for continued compliance with applicable laws and rules under the rules to be Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

established by the department. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**3. Failure to comply with applicable laws and rules.** In taking action pursuant to this subsection, the department shall notify the licensee of the opportunity to request an administrative hearing or shall file a complaint with the District Court in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.<sup>1</sup>

**A.** When an applicant fails to comply with applicable law and rules, the department may refuse to issue or renew the license or approval.

**B.** If, at the expiration of a full or provisional license or approval, at the expiration of a temporary family foster home license or during the term of a full license or approval, the facility fails to comply with applicable law and rules and, in the judgment of the commissioner, the best interest of the public would be served, the department may issue a conditional license or approval, or change a full license or approval to a conditional license or approval. Failure by the conditional licensee to meet the conditions specified by the department shall permit the department to void the conditional license or approval or refuse to issue a full license or approval. The conditional license or approval shall be void when the department has delivered in hand or by certified mail a written notice to the licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left written notice thereof at the agency or facility. For the purposes of this subsection the term “licensee” means the person, firm, corporation or association to whom a conditional license or approval has been issued.

**C.** Whenever, upon investigation, conditions are found which, in the opinion of the department, immediately endanger the health or safety of persons living in or attending a facility, the department may request the District Court for an emergency suspension pursuant to Title 4, section 184, subsection 6.

**D.** Any license or approval issued under this subtitle may be suspended or revoked for violation of applicable law and rules, committing, permitting, aiding or abetting any illegal practices in the operation of the facility or conduct or practices detrimental to the welfare of persons living in or attending the facility.

When the department believes that a license or approval should be suspended or revoked, it shall file a complaint with the District Court as provided in the Maine Administrative Procedure Act, Title 5, chapter 375.

**4. Subsequent application for a full license or approval.** Subsequent to any of the following actions, a subsequent application for a full license or approval may be considered by the department when the deficiencies identified by the department have been corrected:

**A.** Issuance of a conditional license or approval;

**B.** Refusal to issue or renew a full license or approval;

**C.** Revocation or suspension of a full license or approval;

**D.** Refusal to issue a provisional license or approval; or

**E.** Expiration of a temporary family foster home license.

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

**5. Appeals.** Any person aggrieved by the department's decision to take any of the following actions, may request an administrative hearing, as provided by the Maine Administrative Procedure Act, Title 5, chapter 375<sup>1</sup>:

- A. Issue a conditional license or approval;
- B. Amend or modify a license or approval;
- C. Void a conditional license or approval;
- D. Refuse to issue or renew a full license or approval;
- E. Refuse to issue a provisional license or approval; or
- F. Refuse to issue a temporary family foster home license.

**6. Time limit on reapplication after denial or revocation.** The following time limit applies to a reapplication after denial or revocation.

**A.** When a license or certificate for a child care facility or a family child care provider has been denied or revoked on one occasion, the applicant or licensee may not reapply for a license or certificate for a child care facility or a family child care provider for a period of one year from the effective date of the denial or revocation decision if not appealed, or, if appealed, from the effective date of the commissioner's final decision or the reviewing court's order, whichever is later.

**B.** If a license or certificate for a child care facility or a family child care provider has been denied or revoked on 2 occasions, the applicant or licensee may not reapply for a license or certificate for a child care facility or a family child care provider for a period of 2 years from the effective date of the second denial or revocation decision if the decision is not appealed or, if appealed, from the effective date of the commissioner's final decision or the reviewing court's order, whichever is later.

**C.** If a license or certificate for a child care facility or a family child care provider has been denied or revoked on 3 occasions, the applicant or licensee may not receive another license or certificate for the care of children.

**7. Rules.** The department may adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>2</sup>

22 M.R.S.A. § 7803

§ 7803. Repealed. Laws 1983, c. 386, § 3

22 M.R.S.A. § 7804

§ 7804. Right of entry

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

The department shall have the right of entry to any facility licensed under this subtitle, at any reasonable time in order to determine the state of compliance by the facility to applicable laws and rules.

To inspect any facility which the department knows or believes is operated without a license, the department may enter only with the permission of the owner or person in charge or with a search warrant from the District Court authorizing entry and inspection.

Any application for a license under this subtitle shall constitute permission for entry and inspection to verify compliance with applicable law and rules.

22 M.R.S.A. § 7805

§ 7805. Tribally licensed facilities

With respect to the placement care and funding of care of any Indian child as defined in the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq., this Subtitle does not apply to any Indian foster family home, adoptive home or other facility licensed by a federally recognized Indian tribe in this State pursuant to that Act.

22 M.R.S.A. § 7806

§ 7806. Confidentiality guidelines

As a condition of licensure under this subtitle, the department shall require entities described in section 7801, subsection 1, paragraphs A, A-1, B and C to develop policies for releasing nontreatment information about a resident to law enforcement agencies, schools, parents, guardians or other appropriate public agencies. The department shall establish by rule a model resident information confidentiality policy for entities subject to this section. Rules adopted under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.<sup>1</sup>

22 M.R.S.A. § 7807

§ 7807. License not required

A license is not required to operate an independent housing with services program, as defined in section 7852.

22 M.R.S.A. Subt. 6, Ch. 1669, Refs & Annos

22 M.R.S.A. § 8101

§ 8101. Definitions

Effective: October 9, 2013

As used in this subtitle, unless the context otherwise indicates, the following terms have the following meanings.

**1. Children's home.** "Children's home" means any residence maintained exclusively or in part for the board and Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

care of one or more children under the age of 18. "Children's home" does not include:

- A. A facility established primarily to provide medical care;
- B. A youth camp licensed under section 2495; or
- C. A school established solely for educational purposes except as provided in subsection 4.

**2. Emergency children's shelter.** "Emergency children's shelter" means a facility that operates to receive children 24 hours a day and that limits placement to 30 consecutive days or less. For purposes of this section, the definition of "children" includes a person under 21 years of age. "Emergency children's shelter" does not mean a family foster home or specialized children's home. If emergency shelter is a service provided by a children's residential care facility, the service is restricted to a designated physical area of the facility.

**3. Family foster home.** "Family foster home" means a children's home, other than an Indian foster family home, that is a private dwelling where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis. The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. "Family foster home" includes the home of a resource family whether the family provides foster care, kinship care, adoption or permanency guardianship services, as long as the home meets the requirements and standards for adoption of children in foster care. Family foster homes licensed by the Department of Health and Human Services or relatives' homes approved by the Department of Health and Human Services as meeting licensing standards are eligible for insurance pursuant to Title 5, section 1728-A. In any action for damages against a family foster home provider insured pursuant to Title 5, section 1728-A, for damages covered under that policy, the claim for and award of those damages, including costs and interest, may not exceed \$300,000 for any and all claims arising out of a single occurrence. When the amount awarded to or settled for multiple claimants exceeds the limit imposed by this section, any party may apply to the Superior Court for the county in which the governmental entity is located to allocate to each claimant that claimant's equitable share of the total, limited as required by this section. Any award by the court in excess of the maximum liability limit must be automatically abated by operation of this section to the maximum limit of liability. Nothing in this subsection may be deemed to make the operation of a family foster home a state activity nor may it expand in any way the liability of the State or foster parent.

**3-A. Indian foster family home.** "Indian foster family home" means a foster home licensed, approved or specified by the Indian child's tribe where substitute parental care is provided for an Indian child as defined in the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq.

**4. Children's residential care facility.** "Children's residential care facility" means a children's facility that provides board and care for one or more children on a regular, 24-hour a day, residential basis. For purposes of this section, the definition of "children" includes a person under 21 years of age. A children's residential care facility does not mean a family foster home, a specialized children's home or an emergency children's shelter. The term includes, but is not limited to:

- A. **Deleted.** Laws 2007, c. 324, § 13, eff. June 19, 2007.
- B. An approved treatment facility under Title 5, section 20003, subsection 3;
- C. A drug treatment center under section 8001;

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

**D. Deleted.** Laws 2007, c. 324, § 13, eff. June 19, 2007.

**E.** A residential facility under Title 34-B, section 1431; and

**F.** A children’s residential treatment facility with secure capacity.

**4-A. Shelter for homeless children.** “Shelter for homeless children” means a facility designed to provide for the overnight lodging and supervision of children 10 years of age or older for no more than 30 consecutive overnights. For purposes of this section, the definition of “children” includes a person under 21 years of age.

**4-B. Children’s residential treatment facility with secure capacity.** “Children’s residential treatment facility with secure capacity” means a children’s residential care facility that provides a mental health intensive treatment program to a child whose diagnostic assessment indicates that the persistent pattern of the child’s mental health presents a likely threat of harm to self or others and requires treatment in a setting that prevents the child from leaving the program. For purposes of this section, the definition of “children” includes a person under 21 years of age.

**5. Specialized children’s home.** “Specialized children’s home” means a children’s home where care is provided to no more than 4 moderately to severely handicapped children by a caretaker who is specifically educated and trained to provide for the particular needs of each child placed. The total number of children in a specialized children’s home may not exceed 4, including the caretaker’s legal children under 16 years of age, with no more than 2 children under the age of 2.

**22 M.R.S.A. § 8102**

**§ 8102. Rules**

**Effective: October 9, 2013**

**1. Rules.** The department shall adopt rules for the various levels of children’s residential care facilities, including, but not limited to, facilities that are private nonmedical institutions, in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375.<sup>1</sup> Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The rules must be designed to protect the health, safety, well-being and development of children and must include, but are not limited to:

**A.** The number and qualifications of staff;

**B.** Rights and responsibilities of parents, children and staff;

**C.** The nature, provision, documentation and management of programs of care or treatment; and

**D.** The physical environment.

**2. Repealed.** Laws 1981, c. 260, § 4.

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

**3. Repealed.** Laws 1977, c. 694, § 379, eff. July 1, 1978.

22 M.R.S.A. § 8103

§ 8103. Fire safety; inspections for children's homes

**1. Repealed.** Laws 2003, c. 599, § 10, eff. April 6, 2004.

**1-A. Inspection required.** Except as provided in subsection 2, the department may not issue a license to operate to a children's home until the department has received from the Commissioner of Public Safety a written statement signed by one of the officials designated under Title 25, section 2360, 2391 or 2392 to make fire safety inspections. This statement must indicate that the children's home has complied with applicable fire safety provisions referred to in Title 25, section 2452.

**2. Temporary license.** The department may issue a temporary license to operate a family foster home, as defined by section 8101, subsection 3, without complying with the requirement to receive a written, signed statement under subsection 1-A prior to issuing the license as long as a preliminary evaluation of the home reveals no obvious fire safety violations.

**3. Fees.** The department shall establish and pay reasonable fees to the Commissioner of Public Safety for each inspection required pursuant to subsection 1-A.

**4. Requirements for facilities with 17 or more beds.** A children's home that has a capacity of 17 or more beds must comply with the Life Safety Code of the National Fire Protection Association, Residential Board and Care Occupancies sections for large facilities as adopted by the Commissioner of Public Safety.

**5. Requirements for children's home with more than 3 but fewer than 17 beds.** A children's home that has a capacity of more than 3 but fewer than 17 beds must comply with the Life Safety Code of the National Fire Protection Association, Residential Board and Care Occupancies sections for small facilities as adopted by the Commissioner of Public Safety. In addition, automatic emergency lights must be provided in the number and location required by the Commissioner of Public Safety.

**6. Requirements for children's home with 6 or fewer beds.** Notwithstanding subsection 5, the department may consider a children's home that has 6 or fewer residents, all of whom can evacuate the home without the assistance of another person in 3 minutes or less, to be in compliance with the one-family and 2-family dwelling requirements of the Life Safety Code of the National Fire Protection Association as adopted by the Commissioner of Public Safety. Facilities having 3 or fewer residents must meet the requirements of the one-family and 2-family dwelling chapter of the Life Safety Code of the National Fire Protection Association as adopted by the Commissioner of Public Safety.

**7. Local regulations.** Nothing in this section prevents a locality from imposing requirements for children's homes more stringent than those required in this section.

22 M.R.S.A. § 8104

§ 8104. Interagency licensing

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

**1. Interagency licensing method.** The Commissioner of Education and the Commissioner of Health and Human Services, or their designees, shall jointly establish a method for interagency licensing of residential child care facilities subject wholly or partly to licensing by both of the departments. The method must provide for the following:

- A. Development of common licensing rules;
- B. Periodic review of licensing rules;
- C. Delegation of departmental responsibilities; and
- D. Determination of licensing fees.

**2. Licensing authority.** For the purposes of this section, the Department of Health and Human Services shall have licensing authority for residential child care facilities. This authority shall not relieve any agency of responsibility for the proper and efficient management or evaluation of programs funded by that agency.

**3. Common licensing rules.** Common licensing rules developed under this section shall eliminate varying, duplicative and conflicting rules and procedures. Common licensing rules shall also assure, as far as practicable, that:

- A. Licensing is accomplished expeditiously;
- B. Applicants have to deal with as few agency representatives as possible;
- C. Consideration is given to special circumstances made known by an applicant which make the timing of licensing investigation unreasonable;
- D. Applicants are promptly informed of licensing decisions and of the cause for any delay or denial;
- E. Applicants do not have to obtain information from another agency if the licensing agency can obtain the information more conveniently; and
- F. Rules are applied uniformly.

**4. Authority to change daily rate for unlicensed foster care providers.** Notwithstanding any other provision of law, the department may change the daily rates for foster board and care paid to unlicensed homes and may provide the opportunity for those unlicensed homes, if they choose to apply, to pursue licensure that could result in a higher rate of payment.

22 M.R.S.A. § 8105

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

§ 8105. Transitional provision

**1. Rules.** Any rule in effect immediately prior to the effective date of this section shall remain in effect until it is amended.

**2. Licenses.** Any license in effect immediately prior to the effective date of this section shall remain in effect unless it is revoked, suspended or made conditional, or until it expires, or until a new license is issued.

22 M.R.S.A. § 8106

§ 8106. Repealed. Laws 1993, c. 685, § B-4

22 M.R.S.A. § 8107

§ 8107. Exceptions

Effective: October 9, 2013

The following exceptions to placement, as defined in section 8101, shall apply.

**1. Number; placement.** The limitations on the number of children in children's homes shall not prohibit the placement of more than the allowed number, if the purpose of the placement is to keep siblings together.

**2. Handicapped; placement.** The definitions used shall not preclude the department from placing a moderately to severely handicapped child in any appropriate child care facility at the department's discretion, subject to the limitations on the number of children specified in section 8101, subsections 1 and 3.

**3. Residents 18 years of age or older.** A resident in a children's home may remain in that home after attaining the age of 18 years without the home being required to be licensed as a boarding care facility under chapter 1663<sup>1</sup> if the department determines that it is in the best interest of the resident.

**4. Parents of children receiving services.** Adult parents may reside with their children in a children's residential care facility in order to facilitate the care of the child when the department has determined it to be in the best interest of the child.

The department may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>2</sup>

22 M.R.S.A. Subt. 6, Ch. 1673, Refs & Annos

22 M.R.S.A. § 8301

§ 8301. Repealed. Laws 1997, c. 494, § 7.

22 M.R.S.A. § 8301-A

§ 8301-A. Licensure of child care facilities; certification of family child care providers

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Effective: September 12, 2009

1. Deleted. Laws 2001, c. 645, § 6.

**1-A. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**A. “Child care center” means:**

(1) A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or

(2) Any location or locations operated as a single child care program or by a person or persons when there are more than 12 children being cared for.

**B. “Child care facility” means a child care center, small child care facility or nursery school. “Child care facility” does not include a facility operated by a family child care provider, a youth camp licensed under section 2495, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball, a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A or a private school recognized by the Department of Education as a provider of equivalent instruction for the purpose of compulsory school attendance. Any program for children under 5 years of age that is located in a private school and programs that contract with one or more Child Development Services System sites are required to be licensed as a child care facility.**

**C. “Family child care provider” means a person who provides day care in that person’s home on a regular basis, for consideration, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider’s home. If a provider is caring for children living in that provider’s home and is caring for no more than 2 other children, the provider is not required to be certified as a family child care provider.**

**D. “Nursery school” means a house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program that provides care for 3 or more children 33 months of age or older and under 8 years of age, provided that:**

(1) No session conducted for the children is longer than 3 ½ hours in length;

(2) No more than 2 sessions are conducted per day;

(3) Each child in attendance at the nursery school attends only one session per day; and

(4) No hot meal is served to the children.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

“Nursery school” does not include any facility operated as a child care center or small child care facility licensed under subsection 2, a youth camp licensed under section 2495 or a public or private school in the nature of a kindergarten approved by the Commissioner of Education, in accordance with Title 20-A.

**E.** “Small child care facility” means a house or other place, not the residence of the operator, in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 to 12 children under 13 years of age.

**2. Child care facility licensure.** The owner or operator of a child care facility shall pay the licensing fee required under section 8303-A. A child care facility must be licensed under this chapter and must comply with the rules adopted by the commissioner under section 8302-A and the fire safety requirements of section 8304-A. The department shall make at least one unannounced inspection of a child care facility licensed under this chapter during the term of the license. The inspection must take place between 6 and 18 months after the issuance of the license. Except as otherwise provided, a nursery school must meet the requirements of this chapter and chapter 1675.

**3. Family child care provider certification.** A family child care provider shall pay the certification fee required under section 8303-A. A family child care provider must be certified under this chapter and shall comply with the rules adopted by the commissioner under section 8302-A and the fire safety requirements of section 8304-A. The department shall make at least one unannounced inspection of a family child care provider certified under this chapter during the term of the certificate. The inspection must take place between 6 and 18 months after the issuance of the certificate.

**4. Complaints.** Upon receipt of a complaint about a licensed child care facility or a certified family child care provider and if the department has reasonable cause to suspect that a violation of the licensure or certification requirements has occurred, the department may investigate the complaint and enter the premises at any reasonable time for the purposes of the investigation.

**5. Administrative suspension.** Whenever conditions exist that immediately jeopardize the health and safety of children, the commissioner may issue an order of closure, which suspends the certification of the family child care provider or the child care facility license for up to 10 days, pending further investigation or prior to obtaining an order of emergency suspension from the court. The department shall require that an order of closure be posted at the facility and made public as it determines to be most appropriate for parents and other potential customers.

**6. Temporary license.** Whenever a certified family child care provider or licensed child care facility moves to a new location the department may issue a temporary certificate or license, valid pending final action on the application for the new location by the department, when:

**A.** All applicable standards have been met except a requirement that is dependent on the action of an agency of State Government or a contractor of that agency; and

**B.** Through no action by the applicant that causes a significant delay, timely issuance of a provisional or full license has been delayed by the agency or contractor.

**7. Injunctive relief.** The department may seek an injunction to require compliance with the provisions of this section or rules adopted pursuant to this section.

**8. Rulemaking.** The department shall adopt rules to implement this section. Rules adopted pursuant to this section

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**9. Exemption from certain requirements for accredited Montessori schools.** Notwithstanding any provision of this chapter or rules adopted pursuant to this chapter, a child care facility that is accredited as a Montessori school by a national or international accreditation organization may apply to the commissioner for an exemption from those requirements of this chapter or rules adopted pursuant to this chapter that conflict with the recognized tenets of the Montessori philosophy.

The commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

22 M.R.S.A. § 8302

§ 8302. Repealed. Laws 1997, c. 494, § 9.

22 M.R.S.A. § 8302-A

§ 8302-A. Rules for child care facilities and family child care providers

Effective: August 23, 2006

The commissioner shall adopt rules for child care facilities and family child care providers according to this section. Nursery schools are subject to the requirements of chapter 1675 and this section, except that subsection 1, paragraph F does not apply to nursery schools.

**1. Rules for child care facilities.** Rules for child care facilities must include, but are not limited to, rules pertaining to the following:

**A.** Child to staff ratios;

**B.** The health and safety of the children and staff, including training on communicable diseases;

**C.** Water for drinking and cooking;

**D.** Wastewater;

**E.** Rabies vaccinations for pets;

**F.** The quality of the program provided;

**G.** The age, criminal record and personal history of the provider of care for children and staff members;

**H.** The administration of medication; and

**I.** Licensing procedures.

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**2. Rules for family child care providers.** Rules for family child care providers must include, and are limited to, rules pertaining to the following:

**A.** Cardiopulmonary resuscitation;

**B.** Water for drinking and cooking;

**C.** Wastewater;

**D.** Rabies vaccinations for pets;

**E.** Recording the times, reasons and numbers of children involved when more than 12 children are cared for;

**F.** Ongoing training for providers on health and safety issues, including training on communicable diseases. This training must be offered at times that are convenient to the providers;

**G.** Child to staff ratios;

**H.** Health and safety of the children and staff;

**I.** Procedures for waivers of rules and for suspension and revocation of certification; and

**J.** The age, criminal record and personal history of the family child care provider, staff and members of the household.

Rules adopted pursuant to paragraphs A to F are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A and rules adopted pursuant to paragraphs G to J are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

22 M.R.S.A. § 8302-B

§ 8302-B. Providers subject to standards

Effective: August 23, 2006

A person who provides day care in that person's home for one or 2 children whose care is paid for by state or federal funds is not required to be certified as a family child care provider pursuant to section 8301-A but is subject to the provisions of this section.

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

**1. Investigation.** The provider must pass a background investigation check by the State Bureau of Investigation, a check for involvement with child protective services and a motor vehicle record check.

**2. Information provided by department.** The department shall supply providers with information on the following topics:

A. Health and safety, including the control of communicable disease, and immunization requirements;

B. Physical premises safety; and

C. Training opportunities in health and safety, first aid and cardiopulmonary resuscitation and early care and education.

**3. Authority to inspect.** The department has the authority to inspect the premises of the person providing the care.

22 M.R.S.A. § 8303

§ 8303. Repealed. Laws 1993, c. 353, § 1, eff. Jan. 1, 1994

22 M.R.S.A. § 8303-A

§ 8303-A. Fee for licenses

Effective: July 12, 2010

**1. Child care facilities and certified family child care providers.** The department shall adopt rules to establish reasonable fees for both initial licensure or certification and license or certification renewals for child care facilities and certified family child care providers. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.<sup>1</sup>

**2. Nursery schools.** The department shall adopt rules to establish reasonable initial and renewal licensing fees for nursery schools that may not exceed \$40 for an initial or renewal license. The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

22 M.R.S.A. § 8304

§ 8304. Repealed. Laws 1993, c. 158, § 4

22 M.R.S.A. § 8304-A

§ 8304-A. Fire safety

Effective: August 23, 2006

**1. Inspection required.** As an ongoing condition of licensure or certification, the Commissioner of Public Safety Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

must provide at least biennially to the department a written statement that the child care facility or certified family child care provider complies with applicable fire safety rules adopted pursuant to Title 25, section 2452. The Commissioner of Public Safety shall adopt rules in accordance with the Maine Administrative Procedure Act<sup>1</sup> to implement this subsection. The rules must provide for at least the following.

**A.** The Commissioner of Public Safety shall issue a fire safety technician certificate to any person who successfully completes a training course established by the Department of Public Safety. A person who receives a fire safety technician certificate pursuant to this paragraph may perform fire safety inspections under this section.

**B.** In addition to ongoing license or certification requirements, inspection and certification are required under this section whenever a child care facility or certified family child care provider changes or augments a heating system or makes major structural alterations to the facility or home.

**2. Fees.** The department shall establish and pay reasonable fees to the Department of Public Safety for services rendered under this section. Fees collected by the Department of Public Safety under this section must be deposited into a special revenue account to carry out the purposes of this section. A balance remaining in the account at the end of the fiscal year may not lapse but must be carried forward into subsequent fiscal years.

**3. Inspectors.** The Commissioner of Public Safety may appoint subject to the Civil Service Law<sup>2</sup> employees needed to carry out the purposes of this section. A person appointed pursuant to this subsection is under the administrative and supervisory direction of the Commissioner of Public Safety.

22 M.R.S.A. § 8305

§ 8305. Repealed. Laws 1997, c. 494, § 14.

22 M.R.S.A. § 8306

§ 8306. Repealed. Laws 2005, c. 530, § 12

Effective: August 23, 2006

22 M.R.S.A. § 8307

§ 8307. State employee child care programs

Effective: May 22, 2012

The Office of Child Care Coordination annually shall evaluate the status of state financed or operated child care facilities and programs which are operated primarily as a service for children of state employees, and shall set forth plans for the development of additional facilities. For the purpose of this section, “state employee” includes employees subject to the civil service law, employees defined in Title 5, chapter 71,<sup>1</sup> and legislative employees.

**1. Evaluation and report.** The Office of Child Care Coordination shall report its findings and recommendations annually to the joint standing committee of the Legislature having jurisdiction over human resources no later than the 3rd Wednesday in January of each first regular session of the Legislature. This report, at a minimum, shall include the following:

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

- A. The number and location of child care sites operated or planned for operation primarily for children of state employees;
- B. The number and ages of children at each site;
- C. The number and ages of children of state employees on waiting lists for admittance to the programs;
- D. The types of activities and programs provided to the children;
- E. The budget for each site, including expenditures and income. Income shall be further described to include fees charged and income from other sources. Any deficits shall also be described;
- F. Assistance provided for children of low-income state employee households, including sliding scale fees and any other assistance. The number of children for whom this assistance is being provided shall also be included;
- G. Any problems encountered in the operation of the child care facilities and programs and the reasons for these problems;
- H. The successes that have been realized as a result of this service to state employees, including state employee successes relating directly to the program;
- I. The hours of operation of each facility; and
- J. Any other information deemed relevant and useful by the Office of Child Care Coordination.

**2. Feasibility study of other child care facilities and programs.** Prior to the creation of new or additional state financed or operated child care facilities provided primarily for the benefit of state employees, except the initial facility to be located in the Augusta area, the Office of Child Care Coordination, in cooperation with the Bureau of General Services, shall conduct a feasibility study of the proposed child care facility, which must be located in a state-owned facility or in a facility located conveniently near the workplaces of state employees. This feasibility study, at a minimum, must include:

- A. The location of the site and the reasons justifying the location, including reasons justifying or not justifying using state-owned facilities;
- B. An analysis of the benefits and liabilities of contracting with the private sector to provide child care programs under this section;
- C. An analysis of the benefits and liabilities of State Government operation of child care programs and facilities for children of state employees;
- D. The number and ages of children proposed for the site;

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

**E.** The type of assistance to be made available to children of state employees classified as low-income households;

**F.** The types of activities and programs to be provided, including preschool and after-school programs;

**G.** A time schedule for the commencement of programs at each facility;

**H.** Sources of income, including fees, if any, for funding each facility; and

**I.** Any other information determined important by the Office of Child Care Coordination and the Bureau of General Services.

The report required by this subsection must be provided to the joint standing committee of the Legislature having jurisdiction over human resources matters in a timely manner preceding the selection of the site.

**3. Priorities; rulemaking.** Any child care facility and programs operated primarily as a service to state employees shall give priority to children of low-income state employee households. Any facilities and programs offered under this section shall also be conveniently located for the use of state employees. The Office of Child Care Coordination shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375,<sup>2</sup> with respect to:

**A.** Priorities of eligibility for the program;

**B.** The number of children that each state employee may enroll;

**C.** A sliding scale of fees for state employee households of different incomes; and

**D.** A definition of low income.

**4. Collective bargaining.** It is not the intent of the Legislature in this section to limit or restrict the rights of state employees to bargain collectively as provided in Title 26. Nothing in this section may invalidate or supersede the provisions of a collective bargaining agreement between an employee organization and the State.

22 M.R.S.A. § 8308

§ 8308. Repealed. Laws 2011, c. 641, § 1.

Effective: August 30, 2012

22 M.R.S.A. Subt. 6, Ch. 1675, Refs & Annos

22 M.R.S.A. § 8401

§ 8401. Definitions

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Deleted.** Laws 2001, c. 645, § 9.

**2. Nursery school.** “Nursery school” has the same meaning as in section 8301-A, subsection 1-A, paragraph D.

22 M.R.S.A. § 8402

§ 8402. Licensure

Effective: August 23, 2006

**1, 2. Repealed.** Laws 1983, c. 386, § 4.

**3. Requirements.** In order to receive a license from the department, a nursery school must meet the requirements of chapter 1673 applicable to nursery schools and the following requirements.

**A.** The department shall adopt rules regarding the health of staff as required to protect the health and safety of the children. The rules must include a requirement that every 2 years each licensee, administrator or other staff member of the nursery school who provides care for children be declared free from communicable disease by a licensed physician, except that this requirement may be waived for a person who objects on the grounds of sincerely held religious or philosophical belief. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**B.** Drinking water that is taken from sources other than a public water system must pass a test for bacteria, nitrates and nitrites every year and must pass a partial chemical test every 4 years.

**C.** The nursery school carries minimum liability insurance of \$100,000 per person and \$300,000 per occurrence.

**D. Deleted.** Laws 2001, c. 645, § 10.

**E.** The nursery school meets, biennially, the fire safety requirements specified in section 8403, subsection 2.

**F. Deleted.** Laws 2001, c. 645, § 10.

**3-A. Rules.** The department shall establish routine technical rules pursuant to Title 5, chapter 375, subchapter II-A for the safe operation of nursery schools. These rules must be reasonably related to the health and safety of children cared for in nursery schools.

**4. License issued promptly.** The department shall issue with reasonable promptness a license to each nursery school from which the department has received and verified documentation indicating that the nursery school has met the requirements included in subsection 3.

**5. Repealed.** Laws 1993, c. 353, § 6, eff. January, 1, 1994.

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

**6. Relationship to licensing of child care facilities.** A nursery school must be licensed as a child care facility under chapter 1673.

22 M.R.S.A. § 8402-A

§ 8402-A. Rules and regulations

The department shall establish rules and regulations for the administration of medication in nursery schools.

22 M.R.S.A. § 8403

§ 8403. Fire safety

Effective: August 23, 2006

**1. Inspection required.** A license may not be issued by the department for a nursery school until the department has received from the Commissioner of Public Safety a written statement signed by one of the officials designated in Title 25, section 2360, 2391 or 2392 to make fire safety inspections.

**2. Requirements.** This written statement must be furnished biennially to the department and must indicate that the nursery school has complied with at least the requirements of the Life Safety Code of the National Fire Protection Association that are specified in:

**A.** The family day care homes section, if the nursery school has at least 3 but no more than 6 children per session;

**B.** The group day care homes section, if the nursery school has at least 7 but no more than 20 children per session; or

**C.** The child day care centers section, if the nursery school has more than 20 children per session.

**3. Fees.** The department shall establish and pay reasonable fees to the Department of Public Safety or municipal officials for each such inspection. Fees collected by the Department of Public Safety must be deposited into a special revenue account to defray expenses in carrying out this section. Any balance of fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

22 M.R.S.A. § 8404

§ 8404. Repealed. Laws 1981, c. 470, § A, 119, eff. June 18, 1981

22 M.R.S.A. § 8405

§ 8405. Exemption from certain requirements for accredited

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

Maine Revised Statutes Annotated \_Title 22. Health and Welfare \_Subtitle 6. Facilities for Children and Adults \_Chapter 1661. General Provisions

**Montessori schools**

Notwithstanding any provision of this chapter<sup>1</sup> or chapter 1673<sup>2</sup> or rules adopted pursuant to this chapter or chapter 1673, a nursery school that is accredited as a Montessori school by a national or international accreditation organization may apply to the commissioner for an exemption from those requirements of this chapter or chapter 1673 or rules adopted pursuant to this chapter or chapter 1673 that conflict with the recognized tenets of the Montessori philosophy.

The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.<sup>3</sup>

Current with emergency legislation through Chapter 607 of the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.