

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 1744, L.D. 2298)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2441

H.P. 1846 House of Representatives, April 6, 1984

Reported by the Majority from the Committee on Business Legislation  
and printed under Joint Rule 2.

Original bill presented by Representative Rolde of York.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT to Clarify the Extension of  
Consumers' Freedom of Choice Regarding Insured  
Mental Health Services.

Be it enacted by the People of the State of Maine as  
follows:

Sec. 1. 24 MRSA §2303, sub-§2, as amended by PL  
1983, c. 546, §1, is further amended to read:

2. Mental health services provided by psycholo-  
gists or certified social workers. Notwithstanding  
any provision of a contract between a subscriber and  
a nonprofit hospital or medical service organization  
entered into pursuant to a hospital service plan,  
medical service plan or health care plan authorized  
under this chapter, and notwithstanding any other  
provision of this chapter, whenever the contract pro-  
vides for payment or reimbursement for mental health  
services, payment or reimbursement for the provision

1 of these services shall not be denied because the  
2 services are provided by a contracting licensed psy-  
3 chologist who is trained and received a doctorate in  
4 psychology specializing in the evaluation and treat-  
5 ment of human behavior, a contracting certified so-  
6 cial worker licensed for the independent practice of  
7 social work in this State who has at least a masters  
8 degree in social work from an accredited educational  
9 institution and, has been employed in social work for  
10 at least 2 years, and who, after January 1, 1985,  
11 must be licensed as a clinical social worker in this  
12 State, or a contracting licensed nurse who is trained  
13 and has received a certificate as a clinical special-  
14 ist in psychiatric and mental health nursing from the  
15 American Nurses' Association, acting within the scope  
16 of his license or certification. Subject to approval  
17 by the Superintendent of Insurance pursuant to sec-  
18 tions 2305 and 2316, a nonprofit hospital or medical  
19 service organization incorporated under this chapter  
20 shall offer contracts to psychologists licensed pur-  
21 suant to Title 32, section 3831, subsection 2, certi-  
22 fied social workers licensed for the independent  
23 practice of social work who have at least a masters  
24 degree in social work from an accredited educational  
25 institution and, who have been employed in social  
26 work for at least 2 years, and who, after January 1,  
27 1985, must be licensed as a clinical social worker in  
28 this State, and licensed nurses who are certified by  
29 the American Nurses' Association as clinical special-  
30 ists in adult psychiatric and mental health nursing  
31 or as clinical specialists in child and adolescent  
32 psychiatric and mental health nursing, authorizing  
33 the provision of mental health services by these psy-  
34 chologists, clinical social workers, certified social  
35 workers and certified nurses within the scope of  
36 their licensure or certification, if the nonprofit  
37 hospital or medical service organization provides  
38 mental health services in contracts with subscribers.  
39 Payment or reimbursement for services rendered by  
40 clinical social workers licensed in this State shall  
41 not be conditioned upon prior diagnosis or referral  
42 by a physician or other health care professional, ex-  
43 cept in cases where diagnosis of the condition for  
44 which the services are rendered is beyond the scope  
45 of their licensure. With respect to services provided  
46 by psychologists, this subsection applies to all con-  
47 tracts between the subscriber and a nonprofit hospi-

1 tal or medical service organization entered into or  
2 renewed after January 1, 1976. With respect to ser-  
3 vices provided by social workers and nurses, this  
4 subsection applies to all contracts between the sub-  
5 scriber and a nonprofit hospital or medical service  
6 organization entered into or renewed after January 1,  
7 1984, and before January 1, 1988.

8 Sec. 2. 24-A MRSA §2744, as amended by PL 1983,  
9 c. 546, §2, is further amended to read:

10 §2744. Mental health services

11 1. Notwithstanding any provision of a health in-  
12 surance policy subject to this chapter, whenever the  
13 policy provides for payment or reimbursement for ser-  
14 vices which are within the lawful scope of practice  
15 of a psychologist licensed to practice in this State,  
16 a certified social worker licensed for the indepen-  
17 dent practice of social work in this State who has at  
18 least a masters degree in social work from an accred-  
19 ited educational institution and, has been employed  
20 in social work for at least 2 years, and who, after  
21 January 1, 1985, must be licensed as a clinical so-  
22 cial worker in this State, or a licensed nurse who is  
23 certified by the American Nurses' Association as a  
24 clinical specialist in adult psychiatric and mental  
25 health nursing or as a clinical specialist in child  
26 and adolescent psychiatric and mental health nursing,  
27 any person covered by the policy shall be entitled to  
28 reimbursement for these services if the services are  
29 performed by a physician, a psychologist licensed to  
30 practice in this State, a certified social worker li-  
31 icensed for the independent practice of social work  
32 who has at least a masters degree in social work from  
33 an accredited educational institution and, who has  
34 been employed in social work for at least 2 years,  
35 and who, after January 1, 1985, must be licensed as a  
36 clinical social worker in this State, or a licensed  
37 nurse certified by the American Nurses' Association  
38 as a clinical specialist in adult or child and ado-  
39 lescent psychiatric and mental health nursing. With  
40 respect to services provided by physicians or psy-  
41 chologists, this section applies to all health in-  
42 surance policies, contracts or certificates issued,  
43 renewed, modified, altered, amended or reissued on or  
44 after July 1, 1975. Payment or reimbursement for

1 services rendered by clinical social workers licensed  
2 in this State shall not be conditioned upon prior di-  
3 agnosis or referral by a physician or other health  
4 care professional, except in cases where diagnosis of  
5 the condition for which the services are rendered is  
6 beyond the scope of their licensure. With respect to  
7 services provided by social workers and nurses, this  
8 section applies to all health insurance policies,  
9 contracts or certificates issued, renewed, modified,  
10 altered, amended or reissued on or after January 1,  
11 1984, and before January 1, 1988.

12 2. Nothing in subsection 1 may be construed to  
13 require a health insurance policy subject to this  
14 chapter to provide for reimbursement of services  
15 which are within the lawful scope of practice of a  
16 psychologist licensed to practice in this State, a  
17 clinical social worker licensed in this State, a cer-  
18 tified social worker licensed to practice in this  
19 State, or a certified nurse licensed to practice in  
20 this State.

21 Sec. 3. 24-A MRSA §2835, as amended by PL 1983,  
22 c. 546, §3, is further amended to read:

23 §2835. Mental health services

24 1. Notwithstanding any provision of a health in-  
25 surance policy subject to this chapter, whenever the  
26 policy provides for payment or reimbursement for ser-  
27 vices which are within the lawful scope of practice  
28 of a psychologist licensed to practice in this State,  
29 a certified social worker licensed for the independ-  
30 ent practice of social work in this State who has at  
31 least a masters degree in social work from an accred-  
32 ited educational institution and has been employed  
33 in social work for at least 2 years, and who, after  
34 January 1, 1985, must be licensed as a clinical so-  
35 cial worker in this State, or a licensed nurse who is  
36 certified by the American Nurses' Association as a  
37 clinical specialist in adult psychiatric and mental  
38 health nursing or as a clinical specialist in child  
39 and adolescent psychiatric and mental health nursing,  
40 any person covered by the policy shall be entitled to  
41 reimbursement for these services if the services are  
42 performed by a physician, a psychologist licensed to  
43 practice in this State, certified social worker li-

1 censed for independent practice in this State who has  
2 at least a masters degree in social work from an ac-  
3 credited educational institution and, who has been  
4 employed in social work for at least 2 years, and  
5 who, after January 1, 1985, must be licensed as a  
6 clinical social worker in this State, or a licensed  
7 nurse certified by the American Nurses' Association  
8 as a clinical specialist in adult or child and ado-  
9 lescent psychiatric and mental health nursing. With  
10 respect to services provided by physicians or psy-  
11 chologists, this section applies to all health insur-  
12 ance policies, contracts or certificates issued, re-  
13 newed, modified, altered, amended or reissued on or  
14 after April 16, 1976. Payment or reimbursement for  
15 services rendered by clinical social workers licensed  
16 in this State shall not be conditioned upon prior di-  
17 agnosis or referral by a physician or other health  
18 care professional, except in cases where diagnosis of  
19 the condition for which the services are rendered is  
20 beyond the scope of their licensure. With respect to  
21 services provided by social workers and nurses, this  
22 section applies to all health insurance policies,  
23 contracts or certificates issued, renewed, modified,  
24 altered, amended or reissued on or after January 1,  
25 1984, and before January 1, 1988.

26 2. Nothing in subsection 1 may be construed to  
27 require a health insurance policy subject to this  
28 chapter to provide for reimbursement of services  
29 which are within the lawful scope of practice of a  
30 psychologist licensed to practice in this State, a  
31 clinical social worker licensed in this State, a  
32 certified social worker licensed to practice in this  
33 State, or a nurse certified and licensed to practice  
34 in this State.

35 Sec. 4. 32 MRSA §7001, sub-§5-A is enacted to  
36 read:

37 5-A. Clinical social worker. A "clinical social  
38 worker" is a person who has received a license as a  
39 clinical social worker from the board and whose prac-  
40 tice includes the application of recognized princi-  
41 ples, methods and procedures of the profession of so-  
42 cial work to the treatment and prevention of  
43 psycho-social disorders, including the diagnosis of  
44 mental illness and emotional disorders for the pur-

1 pose of treatment and therapeutic intervention, but  
2 excluding the diagnosis of organic mental illness or  
3 treatment of any illness by organic therapy. A clin-  
4 ical social worker may engage in the independent  
5 practice of social work.

6 Sec. 5. 32 MRSA §7001, sub-§§6 and 8, as enacted  
7 by PL 1977, c. 673, §3, are amended to read:

8 6. Psycho-social evaluation. "Psycho-social  
9 evaluation" as used in this chapter means includes  
10 the determination and examination by social workers  
11 of the ~~social~~ psycho-social situation of an individu-  
12 al or group related to inter and intra personal  
13 stress, family background, family interaction, living  
14 arrangements and socio-economic problems and treat-  
15 ment, evaluation, plans and goals, including the di-  
16 agnosis of mental illness and emotional disorders for  
17 the purpose of treatment and therapeutic interven-  
18 tion, but excluding the diagnosis of organic mental  
19 illness or treatment of any illness by organic  
20 therapy, to the extent permitted by the licensure  
21 provision, of this chapter. The diagnosis of mental  
22 illness and emotional disorders shall be limited to  
23 licensed clinical social workers and certified social  
24 workers.

25 8. Social work. "Social work" means engaging in  
26 psycho-social evaluation and therapy, to the extent  
27 permitted by the licensure provisions of this chap-  
28 ter, to effect a change in the feelings, attitudes  
29 and behavior of a client, whether an individual,  
30 group or community, in response to a ~~social~~  
31 psycho-social situation.

32 Sec. 6. 32 MRSA §7002, first ¶, as enacted by PL  
33 1977, c. 673, §3, is amended to read:

34 Notwithstanding the provisions of Title 17-A,  
35 section 4-A, any person who represents himself to the  
36 public as, or uses the titles of, a clinical, certi-  
37 fied, registered or associate social worker, or any  
38 abbreviation thereof, without being registered with  
39 and holding a current certificate from the board  
40 shall, upon conviction, be punished by a fine of not  
41 less than \$50 nor more than \$500 for each offense.

1           Sec. 7. 32 MRSA §7003, as amended by PL 1983, c.  
2 263, is further amended by adding at the end a new  
3 paragraph to read:

4           Persons acting within the scope of their licen-  
5 sure or registration under this chapter shall not be  
6 deemed to be engaging unlawfully in the practice of  
7 medicine within the meaning of section 3270, or psy-  
8 chological practice within the meaning of section  
9 3811.

10          Sec. 8. 32 MRSA §7051, as enacted by PL 1977, c.  
11 673, §3, is amended to read:

12       §7051. Registration required

13           In order to safeguard the life, health and wel-  
14 fare of the people of this State, any person practic-  
15 ing or offering to practice as a clinical, certified,  
16 registered or associate social worker shall be re-  
17 quired to submit evidence that he is qualified to so  
18 practice and shall be registered as provided in this  
19 subchapter.

20          Sec. 9. 32 MRSA §7052, as enacted by PL 1977, c.  
21 673, §3, is amended to read:

22       §7052. Independent practice of social work; license  
23 required

24           In order to safeguard the life, health and wel-  
25 fare of the people of this State, any person engaging  
26 in or offering to engage in the independent practice  
27 of social work who is not licensed as a clinical so-  
28 cial worker shall be required to submit evidence to  
29 the board that he is qualified to so practice, shall  
30 have been employed in social work for at least 2  
31 years and shall be licensed as a certified social  
32 worker as provided in this subchapter.

33           After January 1, 1985, any person who does not  
34 hold a current independent practice license must be-  
35 come licensed as a clinical social worker in order to  
36 engage in the independent practice of social work in  
37 a clinical capacity, as may be further defined by  
38 rules adopted by the board. After that date, any  
39 person engaging in or offering to engage in the inde-



1 pendent practice of social work in other than a clin-  
2 ical capacity shall meet the requirements of and be  
3 licensed under the first paragraph of this section.  
4 Any person who holds a current independent practice  
5 license on January 1, 1985, may continue to engage in  
6 independent practice so long as that license contin-  
7 ues in effect, is renewed in accordance with this  
8 chapter and does not lapse.

9       Sec. 10. 32 MRSA §7053, as amended by PL 1983,  
10 c. 413, §226, is repealed and the following enacted  
11 in its place:

12 §7053. Qualifications

13       To be eligible for a license to practice as a  
14 clinical social worker and for certification as a  
15 certified social worker, registered social worker or  
16 an associate social worker, an applicant shall be at  
17 least 18 years of age and a resident of this State  
18 and shall satisfactorily pass any examination as the  
19 board may prescribe by its rules. Each applicant  
20 shall demonstrate that he is trustworthy and compe-  
21 tent to engage in the practice of social work in such  
22 a manner as to safeguard the interests of the public.

23       The following shall be considered as minimum evi-  
24 dence satisfactory to the board that an applicant is  
25 qualified for registration and certification as a  
26 clinical, certified, registered or associate social  
27 worker, respectively.

28       1. Licensed clinical social worker. As a li-  
29 icensed clinical social worker, an applicant shall  
30 have received a masters or doctoral degree in social  
31 work from an accredited educational institution,  
32 shall have subsequently completed 2 years of super-  
33 vised social work experience in a clinical setting,  
34 shall have demonstrated to the satisfaction of the  
35 board adherence to the ethics of the social work pro-  
36 fession and shall have successfully completed the ex-  
37 amination prescribed by the board.

38       2. Certified social worker. As a certified so-  
39 cial worker, an applicant shall have received either  
40 a masters or doctoral degree in social work from an  
41 accredited educational institution, shall have demon-

1 strated to the satisfaction of the board adherence to  
2 the ethics of the social work profession and shall  
3 have successfully completed the examinations pre-  
4 scribed by the board.

5 3. Registered social worker. As a registered  
6 social worker, an applicant shall have received a  
7 bachelor's degree in social work or social welfare  
8 from an accredited educational institution, shall  
9 have been employed in social work for a period of at  
10 least one year subsequent to the receipt of a bache-  
11 lor's degree, shall have demonstrated to the satis-  
12 faction of the board adherence to the ethics of the  
13 social worker profession and shall have successfully  
14 completed the examination prescribed by the board.

15 4. Associate social worker. As an associate so-  
16 cial worker, an applicant shall have been employed in  
17 social work for not less than 6 years, or shall have  
18 received a bachelor's degree from an accredited edu-  
19 cational institution and shall have been employed in  
20 social work for not less than 2 years, shall have  
21 demonstrated to the satisfaction of the board adhe-  
22 rence to the ethics of the social work profession and  
23 shall have successfully completed the examination  
24 prescribed by the board.

25 Any person having the necessary qualifications  
26 prescribed in this chapter to entitle him to regis-  
27 tration as a clinical, certified, registered or as-  
28 sociate social worker shall be eligible for that reg-  
29 istration though he may not be practicing his profes-  
30 sion at the time of making the application.

31 Sec. 11. 32 MRSA §7054, first ¶, as enacted by  
32 PL 1977, c. 673, §3, is amended to read:

33 A person holding a certificate of registration  
34 under the laws of another state, territory or posses-  
35 sion of the United States, the District of Columbia  
36 or of any foreign country, which is the equivalent of  
37 a license or certificate of registration as a clini-  
38 cal, certified, registered or associate social worker  
39 under this chapter, who, in the opinion of the board,  
40 meets the requirements of this chapter, based upon  
41 verified evidence, may, upon application, be regis-  
42 tered without further examination.

1        Sec. 12. 32 MRSA §7056, as amended by PL 1983,  
2        c. 413, §227, is further amended to read:

3        §7056. Application; fees

4            Application for registration and certification as  
5        a clinical, certified, registered or associate social  
6        worker shall be on a form prescribed and furnished by  
7        the board. An application fee and an examination fee  
8        may be established by the board in amounts which are  
9        reasonable and necessary for their respective pur-  
10       poses. The registration fee for an associate social  
11       worker shall be established by the board in an amount  
12       not to exceed \$25. All fees shall accompany the ap-  
13       plication.

14           The registration fee for a registered social  
15       worker shall be established by the board in an amount  
16       not to exceed \$50. All fees shall accompany the ap-  
17       plication.

18           The registration fee for a certified social work-  
19       er shall be established by the board in an amount not  
20       to exceed \$75. All fees shall accompany the applica-  
21       tion.

22           The license fee for a clinical social worker  
23       shall be established by the board in an amount not to  
24       exceed \$125. All fees shall accompany the applica-  
25       tion.

26           Should the board deny the issuance of a license  
27       or certificate of registration to any applicant, the  
28       application and examination fees shall be  
29       nonrefundable.

30                            STATEMENT OF FACT

31           The purpose of this new draft is to clarify the  
32       eligibility for insurance reimbursement of certain  
33       diagnostic services provided by qualified social  
34       workers by changing the definition of social work as  
35       contained in the current law and by establishing a  
36       new category of "clinical social worker" and pre-  
37       scribing the qualifications for that license.

1           Due to grandfathering provisions and some ambigu-  
2           ity in the current social worker registration law,  
3           there is no single category of registration which in-  
4           cludes all those licensees whose training and experi-  
5           ence qualify them to provide and be reimbursed for  
6           certain diagnostic services. This new draft estab-  
7           lishes and prescribes qualifications for a new cate-  
8           gory of "clinical social workers," who are clearly  
9           authorized to provide certain diagnostic services as  
10          defined therein, without change to the existing li-  
11          cense classifications and authority.

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