

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1744, L.D. 2298)
2 (New Title)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 2442

9 H.P. 1847

House of Representatives, April 6, 1984

10 Reported by the Minority from the Committee on Business Legislation
11 and printed under Joint Rule 2.

Original bill presented by Representative Rolde of York.

12 EDWIN H. PERT, Clerk

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FOUR
18

19 AN ACT Clarifying the Extension of
20 Consumers' Freedom of Choice Regarding Insured
21 Mental Health Services.
22

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

25 Sec. 1. 24 MRSA §2303, sub-§2, as amended by PL
26 1983, c. 546, §1, is further amended to read:

27 2. Mental health services provided by psycholo-
28 gists or certified social workers. Notwithstanding
29 any provision of a contract between a subscriber and
30 a nonprofit hospital or medical service organization
31 entered into pursuant to a hospital service plan,
32 medical service plan or health care plan authorized
33 under this chapter, and notwithstanding any other
34 provision of this chapter, whenever the contract pro-
35 vides for payment or reimbursement for mental health
36 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 clinical
4 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 individual
12 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. In the process of making a diagnosis and
25 formulating a treatment plan for mental illness or
26 emotional disorder, the social worker shall assure
27 that the person is examined by a physician, and may
28 take into account the physician's opinion in forming
29 the psycho-social evaluation.

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

37 Sec. 6. 32 MRSA §7002, first ¶, as enacted by PL
38 1977, c. 673, §3, is amended to read:

39 Notwithstanding the provisions of Title 17-A,
40 section 4-A, any person who represents himself to the
41 public as, or uses the titles of, a clinical, certi-
42 fied, registered or associate social worker, or any

1 abbreviation thereof, without being registered with
2 and holding a current certificate from the board
3 shall, upon conviction, be punished by a fine of not
4 less than \$50 nor more than \$500 for each offense.

5 Sec. 7. 32 MRSA §7003, as amended by PL 1983, c.
6 263, is further amended by adding at the end a new
7 paragraph to read:

8 Persons acting within the scope of their licen-
9 sure or registration under this chapter shall not be
10 deemed to be engaging unlawfully in the practice of
11 medicine within the meaning of section 3270, or psy-
12 chological practice within the meaning of section
13 3811.

14 Sec. 8. 32 MRSA §7051, as enacted by PL 1977, c.
15 673, §3, is amended to read:

16 §7051. Registration required

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

24 Sec. 9. 32 MRSA §7052, as enacted by PL 1977, c.
25 673, §3, is amended to read:

26 §7052. Independent practice of social work; license
27 required

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

37 After January 1, 1985, any person who does not
38 hold a current independent practice license must be-

1 come licensed as a clinical social worker in order to
2 engage in the independent practice of social work in
3 a clinical capacity, as may be further defined by
4 rules adopted by the board. After that date, any
5 person engaging in or offering to engage in the inde-
6 pendent practice of social work in other than a clin-
7 ical capacity shall meet the requirements of and be
8 licensed under the first paragraph of this section.
9 Any person who holds a current independent practice
10 license on January 1, 1985, may continue to engage in
11 independent practice so long as that license contin-
12 ues in effect, is renewed in accordance with this
13 chapter and does not lapse.

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

17 §7053. Qualifications

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

28 The following shall be considered as minimum evi-
29 dence satisfactory to the board that an applicant is
30 qualified for registration and certification as a
31 clinical, certified, registered or associate social
32 worker, respectively.

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

1 2. Certified social worker. As a certified so-
2 cial worker, an applicant shall have received either
3 a masters or doctoral degree in social work from an
4 accredited educational institution, shall have demon-
5 strated to the satisfaction of the board adherence to
6 the ethics of the social work profession and shall
7 have successfully completed the examinations pre-
8 scribed by the board.

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

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

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

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

37 A person holding a certificate of registration
38 under the laws of another state, territory or posses-
39 sion of the United States, the District of Columbia
40 or of any foreign country, which is the equivalent of
41 a license or certificate of registration as a clini-
42 cal, certified, registered or associate social worker

1 under this chapter, who, in the opinion of the board,
2 meets the requirements of this chapter, based upon
3 verified evidence, may, upon application, be regis-
4 tered without further examination.

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

7 §7056. Application; fees

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

18 The registration fee for a registered social
19 worker shall be established by the board in an amount
20 not to exceed \$50. All fees shall accompany the ap-
21 plication.

22 The registration fee for a certified social work-
23 er shall be established by the board in an amount not
24 to exceed \$75. All fees shall accompany the applica-
25 tion.

26 The license fee for a clinical social worker
27 shall be established by the board in an amount not to
28 exceed \$125. All fees shall accompany the applica-
29 tion.

30 Should the board deny the issuance of a license
31 or certificate of registration to any applicant, the
32 application and examination fees shall be
33 nonrefundable.

34 STATEMENT OF FACT

35 The purpose of this new draft is to clarify the
36 eligibility for insurance reimbursement of certain
37 diagnostic services provided by qualified social

1 workers by changing the definition of social work as
2 contained in the current law and by establishing a
3 new category of "clinical social worker" and pre-
4 scribing the qualifications for that license.

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

16 This new draft differs from the majority report
17 by requiring physician involvement at an early stage.
18 This is to assure that organic disorders are properly
19 diagnosed and treated at a meaningful stage. At the
20 same time, the social worker is not required to ob-
21 tain physician approval or referral for diagnosis,
22 evaluation or treatment.

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