

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
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J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

aggrieved party or, at the request of the state sealer, by the Attorney General.

§2369. Transition provision

1. Promulgate and adopt rules. The state sealer, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, shall promulgate and adopt rules pursuant to this subchapter within 90 days of the effective date of this section. The rules shall become effective April 30, 1985.

Sec. 12. 10 MRSA §2753, as enacted by PL 1973, c. 91, §12 is amended to read:

§2753. Injunction

The state sealer is authorized to apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of this chapter or any rule promulgated pursuant to this chapter.

Sec. 13. 30 MRSA §3662 is repealed.

Sec. 14. 30 MRSA §3662-A, as enacted by PL 1965, c. 321, is repealed.

Sec. 15. 30 MRSA §3663 is repealed.

Sec. 16. Severability. If any provision of this Act is declared unconstitutional, or the applicability of the Act to any person or circumstance is held invalid, the constitutionality of the Act and the applicability of the Act to other persons and circumstances shall not be affected thereby.

Effective July 25, 1984.

CHAPTER 805

H.P. 1847 - L.D. 2442

AN ACT Clarifying 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* psychologists 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 provides for payment or reimbursement for mental health services, payment or reimbursement for the provision of these services shall not be denied because the services are provided by a contracting licensed psychologist who is trained and received a doctorate in psychology specializing in the evaluation and treatment of human behavior, a contracting certified social worker licensed for the independent practice of social work in this State who has at least a masters degree in social work from an accredited educational institution and, has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State, or a contracting licensed nurse who is trained and has received a certificate as a clinical specialist in psychiatric and mental health nursing from the American Nurses' Association, acting within the scope of his license or certification. Subject to approval by the Superintendent of Insurance pursuant to sections 2305 and 2316, a nonprofit hospital or medical service organization incorporated under this chapter shall offer contracts to psychologists licensed pursuant to Title 32, section 3831, subsection 2, certified social workers licensed for the independent practice of social work who have at least a masters degree in social work from an accredited educational institution and, who have been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State, and licensed nurses who are certified by the American Nurses' Association as clinical specialists in adult psychiatric and mental health nursing or as clinical specialists in child and adolescent psychiatric and mental health nursing, authorizing the provision of mental health services by these psychologists, clinical social workers, certified social workers and certified nurses within the scope of their licensure or certification, if the nonprofit hospital or medical service organization provides mental health services in contracts with subscribers. Payment or reimbursement for services rendered by clinical social workers licensed in this State shall

not be conditioned upon prior diagnosis or referral by a physician or other health care professional, except in cases where diagnosis of the condition for which the services are rendered is beyond the scope of their licensure. With respect to services provided by psychologists, this subsection applies to all contracts between the subscriber and a nonprofit hospital or medical service organization entered into or renewed after January 1, 1976. With respect to services provided by social workers and nurses, this subsection applies to all contracts between the subscriber and a nonprofit hospital or medical service organization entered into or renewed after January 1, 1984, and before January 1, 1988.

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

§2744. Mental health services

1. Notwithstanding any provision of a health insurance policy subject to this chapter, whenever the policy provides for payment or reimbursement for services which are within the lawful scope of practice of a psychologist licensed to practice in this State, a certified social worker licensed for the independent practice of social work in this State who has at least a masters degree in social work from an accredited educational institution and, has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State, or a licensed nurse who is certified by the American Nurses' Association as a clinical specialist in adult psychiatric and mental health nursing or as a clinical specialist in child and adolescent psychiatric and mental health nursing, any person covered by the policy shall be entitled to reimbursement for these services if the services are performed by a physician, a psychologist licensed to practice in this State, a certified social worker licensed for the independent practice of social work who has at least a masters degree in social work from an accredited educational institution and, who has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State, or a licensed nurse certified by the American Nurses' Association as a clinical specialist in adult or child and adolescent psychiatric and mental health nursing. With respect to services provided by physicians or psychologists, this section applies to all health insurance policies, contracts or certificates issued, renewed, modified, altered, amended or reissued on or after July 1, 1975. Payment or reimbursement for

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

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

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

§2835. Mental health services

1. Notwithstanding any provision of a health insurance policy subject to this chapter, whenever the policy provides for payment or reimbursement for services which are within the lawful scope of practice of a psychologist licensed to practice in this State, a certified social worker licensed for the independent practice of social work in this State who has at least a masters degree in social work from an accredited educational institution and, has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State, or a licensed nurse who is certified by the American Nurses' Association as a clinical specialist in adult psychiatric and mental health nursing or as a clinical specialist in child and adolescent psychiatric and mental health nursing, any person covered by the policy shall be entitled to reimbursement for these services if the services are performed by a physician, a psychologist licensed to practice in this State, certified social worker licensed for independent practice in this State who has at least a masters degree in social work from an accredited educational institution and, who has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State, or a licensed nurse certified by the American Nurses' Association

as a clinical specialist in adult or child and adolescent psychiatric and mental health nursing. With respect to services provided by physicians or psychologists, this section applies to all health insurance policies, contracts or certificates issued, renewed, modified, altered, amended or reissued on or after April 16, 1976. Payment or reimbursement for services rendered by clinical social workers licensed in this State shall not be conditioned upon prior diagnosis or referral by a physician or other health care professional, except in cases where diagnosis of the condition for which the services are rendered is beyond the scope of their licensure. With respect to services provided by social workers and nurses, this section applies to all health insurance policies, contracts or certificates issued, renewed, modified, altered, amended or reissued on or after January 1, 1984, and before January 1, 1988.

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

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

5-A. Clinical social worker. A "clinical social worker" is a person who has received a license as a clinical social worker from the board and whose practice includes the application of recognized principles, methods and procedures of the profession of social work to the treatment and prevention of psycho-social disorders, including the diagnosis of mental illness and emotional disorders for the purpose of treatment and therapeutic intervention, but excluding the diagnosis of organic mental illness or treatment of any illness by organic therapy. A clinical social worker may engage in the independent practice of social work.

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

6. Psycho-social evaluation. "Psycho-social evaluation" as used in this chapter means includes the determination and examination by social workers of the ~~see~~ psycho-social situation of an individu-

al or group related to inter and intra personal stress, family background, family interaction, living arrangements and socio-economic problems and treatment, evaluation, plans and goals, including the diagnosis of mental illness and emotional disorders for the purpose of treatment and therapeutic intervention, but excluding the diagnosis of organic mental illness or treatment of any illness by organic therapy, to the extent permitted by the licensure provision, of this chapter. The diagnosis of mental illness and emotional disorders shall be limited to licensed clinical social workers and certified social workers. In the process of making a diagnosis and formulating a treatment plan for mental illness or emotional disorder, the social worker shall assure that the person is examined by a physician, and may take into account the physician's opinion in forming the psycho-social evaluation. When a person has been seen by a physician within 3 months prior to seeking mental health treatment, a telephone consultation between that physician and the social worker may be held in lieu of the examination required by this subsection. The medical visit or the telephone consultation shall be documented in the clinical records of the person.

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

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

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

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

Persons acting within the scope of their licensure or registration under this chapter shall not be deemed to be engaging unlawfully in the practice of medicine within the meaning of section 3270, or psy-

chological practice within the meaning of section 3811.

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

§7051. Registration required

In order to safeguard the life, health and welfare of the people of this State, any person practicing or offering to practice as a clinical, certified, registered or associate social worker shall be required to submit evidence that he is qualified to so practice and shall be registered as provided in this subchapter.

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

§7052. Independent practice of social work; license required

In order to safeguard the life, health and welfare of the people of this State, any person engaging in or offering to engage in the independent practice of social work who is not licensed as a clinical social worker shall be required to submit evidence to the board that he is qualified to so practice, shall have been employed in social work for at least 2 years and shall be licensed as a certified social worker as provided in this subchapter.

After January 1, 1985, any person who does not hold a current independent practice license must become licensed as a clinical social worker in order to engage in the independent practice of social work in a clinical capacity, as may be further defined by rules adopted by the board. After that date, any person engaging in or offering to engage in the independent practice of social work in other than a clinical capacity shall meet the requirements of and be licensed under the first paragraph of this section. Any person who holds a current independent practice license on January 1, 1985, may continue to engage in independent practice so long as that license continues in effect, is renewed in accordance with this chapter and does not lapse.

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

§7053. Qualifications

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

The following shall be considered as minimum evidence satisfactory to the board that an applicant is qualified for registration and certification as a clinical, certified, registered or associate social worker, respectively.

1. Licensed clinical social worker. As a licensed clinical social worker, an applicant shall have received a masters or doctoral degree in social work from an accredited educational institution, shall have subsequently completed 2 years of supervised social work experience in a clinical setting, shall have demonstrated to the satisfaction of the board adherence to the ethics of the social work profession and shall have successfully completed the examination prescribed by the board.

2. Certified social worker. As a certified social worker, an applicant shall have received either a masters or doctoral degree in social work from an accredited educational institution, shall have demonstrated to the satisfaction of the board adherence to the ethics of the social work profession and shall have successfully completed the examinations prescribed by the board.

3. Registered social worker. As a registered social worker, an applicant shall have received a bachelor's degree in social work or social welfare from an accredited educational institution, shall have been employed in social work for a period of at least one year subsequent to the receipt of a bachelor's degree, shall have demonstrated to the satisfaction of the board adherence to the ethics of the social worker profession and shall have successfully completed the examination prescribed by the board.

4. Associate social worker. As an associate social worker, an applicant shall have been employed in social work for not less than 6 years, or shall have received a bachelor's degree from an accredited educational institution and shall have been employed in social work for not less than 2 years, shall have

demonstrated to the satisfaction of the board adherence to the ethics of the social work profession and shall have successfully completed the examination prescribed by the board.

Any person having the necessary qualifications prescribed in this chapter to entitle him to registration as a clinical, certified, registered or associate social worker shall be eligible for that registration though he may not be practicing his profession at the time of making the application.

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

A person holding a certificate of registration under the laws of another state, territory or possession of the United States, the District of Columbia or of any foreign country, which is the equivalent of a license or certificate of registration as a clinical, certified, registered or associate social worker under this chapter, who, in the opinion of the board, meets the requirements of this chapter, based upon verified evidence, may, upon application, be registered without further examination.

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

§7056. Application; fees

Application for registration and certification as a clinical, certified, registered or associate social worker shall be on a form prescribed and furnished by the board. An application fee and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes. The registration fee for an associate social worker shall be established by the board in an amount not to exceed \$25. All fees shall accompany the application.

The registration fee for a registered social worker shall be established by the board in an amount not to exceed \$50. All fees shall accompany the application.

The registration fee for a certified social worker shall be established by the board in an amount not to exceed \$75. All fees shall accompany the application.

The license fee for a clinical social worker shall be established by the board in an amount not to exceed \$125. All fees shall accompany the application.

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

Effective July 25, 1984.

CHAPTER 806

H.P. 1862 - L.D. 2467

AN ACT to Clarify Certain Laws Relating to Education.

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

Sec. 1. 20-A MRSA §255, sub-§4, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

4. Maintaining records. The commissioner shall preserve all school reports of this State and of other states which he the commission may receive, the returns from the various municipalities and institutions of learning and books, apparatus, maps, charts, works on education, plans for school buildings, models and other articles of interest to school officers and teachers as may be obtained without expense to the State.

Sec. 2. 20-A MRSA §255, sub-§5, ¶D, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

D. Do all in his the commissioner's power to awaken and sustain an interest in education among the people and to stimulate teachers to well directed efforts in their work.

Sec. 3. 20-A MRSA §256, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Report to Governor. The commissioner, annually, shall report to the Governor the result of his the commissioner's inquiries and investigations and