

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

A. From December 1, 2003 to November 30, 2004, a person may not possess, ship, transport, buy or sell scallops that are less than 3 3/4 inches in the longest diameter.

B. On December 1, 2004 and thereafter, a person may not possess, ship, transport, buy or sell scallops that are less than 4 inches in the longest diameter.

2. Prima facie evidence. It is prima facie evidence of possession of illegal scallops if a vessel contains scallops less than the minimum shell size set by this section or the minimum shell size set by rules adopted pursuant to this section while a scallop boat license holder or crew member is shucking scallops.

3. Release of undersize scallops. Those scallops that are less than the minimum shell size established by this section or by rules adopted pursuant to this section must be immediately liberated into the waters from which they were taken.

4. Rules. After December 1, 2004, the commissioner may adopt rules to increase the minimum shell size set by this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Violation. A person who violates this section commits a civil violation. The following penalties apply.

A. For the first offense, a fine of \$250 is imposed and all scallops on board may be seized.

B. For the 2nd and each subsequent offense, a fine of \$250 is imposed, all scallops on board may be seized and the scallop boat license may be suspended for one year.

See title page for effective date.

CHAPTER 64

S.P. 22 - L.D. 36

An Act to Protect the Privacy of Maine Nurses

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

Sec. 1. 32 MRSA §2109 is enacted to read:

**§2109. Confidentiality of personal information of
applicant or licensee**

For applications for licensure and for renewal of licensure submitted on or after July 1, 2004, an applicant or licensee shall provide the board with a

current professional address and telephone number, which is the public contact address, and a personal residence address and telephone number. An applicant's or licensee's personal residence address and telephone number, and e-mail address if provided by the applicant, are confidential information and may not be disclosed except as permitted by this section or as required by law unless the personal residence address, telephone number and e-mail address have been provided as the public contact address. Personal health information submitted as part of any application is confidential information and may not be disclosed except as permitted or required by law.

See title page for effective date.

CHAPTER 65

H.P. 426 - L.D. 563

An Act To Require That Mental Health Workers with LCPC Licenses Are Recognized as Licensed Professionals for Purposes of Insurance Reimbursement

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

Sec. 1. 24-A MRSA §2744, as amended by PL 1995, c. 561, §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 that 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, 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; a licensed clinical professional counselor licensed for the independent practice of counseling who has at least a masters degree in counseling from an accredited educational institution, has been employed in counseling for at least 2 years and, after January 1, 2002, must be licensed as a clinical professional counselor 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 is 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, 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; a licensed clinical professional counselor licensed for the independent practice of counseling who has at least a masters degree in counseling from an accredited educational institution, has been employed in counseling for at least 2 years and, after January 1, 2002, must be licensed as a clinical professional counselor 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~~, licensed clinical professional counselors licensed in this State or licensed nurses certified by the American Nurses' Association as clinical specialists in adult or child and adolescent psychiatric and mental health nursing may 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.

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 that~~ 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 clinical professional counselor licensed to practice in this State, a certified social worker licensed to practice in this State, or a certified nurse licensed to practice in this State.

3. **Mental health services provided by counseling professionals.** ~~An~~ Except as provided in subsection 1 with regard to reimbursement of clinical professional counselors licensed in this State, an insurer that issues individual health care contracts providing coverage for mental health services shall offer coverage for those services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a masters degree in counseling or a related field from an accredited educational institution and has been employed as a counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this section may be subject to any reasonable limitations, maximum

benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract. This subsection applies to all contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 2. 24-A MRSA §2835, as amended by PL 1995, c. 561, §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 that~~ 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, 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; a licensed clinical professional counselor licensed for the independent practice of counseling who has at least a masters degree in counseling from an accredited educational institution, has been employed in counseling for at least 2 years and, after January 1, 2002, must be licensed as a clinical professional counselor 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~~ is 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 independent practice in this State who has at least a masters degree in social work from an accredited educational institution, 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; a licensed clinical professional counselor licensed for the independent practice of counseling who has at least a masters degree in counseling from an accredited educational institution, has been employed in counseling for at least 2 years and, after January 1, 2002, must be licensed as a clinical professional counselor 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~~, licensed clinical professional counselors licensed in this State or licensed nurses certified by the American Nurses' Association as clinical specialists in adult or child and adolescent psychiatric and mental health nursing may 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.

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~~ that 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 clinical professional counselor 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.

3. **Mental health services provided by counseling professionals.** ~~An~~ Except as provided in subsection 1 with regard to reimbursement of clinical professional counselors licensed in this State, an insurer that issues group health care contracts providing coverage for mental health services shall make available coverage for those services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a masters degree in counseling or a related field from an accredited educational institution and has been employed as a counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this section may be subject to any reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract. This subsection applies to all contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 3. 24-A MRSA §4234-A, sub-§8, as amended by PL 2003, c. 20, Pt. VV, §22 and affected by §25, is further amended to read:

8. Contracts; providers. A health maintenance organization incorporated under this chapter shall allow providers, pursuant to sections 2744 and 2835, to contract for and receive payment, subject to the health maintenance organization's credentialing policy, for the provision of mental health services within the scope of the provider's licensure.

Sec. 4. Exemption from review. Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, this Act is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

Sec. 5. Application. This Act applies to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2004. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 66

H.P. 535 - L.D. 729

An Act To Clarify the Standard for Review of Preconviction Bail

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

Sec. 1. 15 MRSA §1028, as amended by PL 1999, c. 731, Pt. ZZZ, §10 and as affected by §42, is further amended to read:

§1028. De novo determination of bail under section 1026

1. By defendant in custody. Any defendant ~~aggrieved by the refusal~~ who is in custody as a result of a decision of a Judge of the District Court or a bail commissioner acting under section 1026 ~~to authorize the defendant's release on personal recognizance or on the execution of an unsecured appearance bond and who is in custody for that crime~~ may petition the Superior Court for a de novo determination of ~~that refusal~~ bail. The District Court Judge or bail commissioner making the decision shall advise the defendant of the right to obtain a de novo determination in the Superior Court.

A. If the defendant chooses to have a de novo determination of bail, the defendant must be furnished with a petition and, upon execution of the petition and without the issuance of any writ or other process, the sheriff of the county in which the decision was made shall provide for the transportation of the defendant together with the petition and all papers relevant to the petition or copies of the petition or papers to the Superior Court.

If no Justice of the Superior Court will be available within 48 hours, excluding Saturdays, Sundays and holidays, arrangements must be made for a de novo determination of bail in the nearest