

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

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.

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## 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

county in which a Justice of the Superior Court is then sitting. The defendant's custodian shall provide transportation to the Superior Court as required by this chapter without the issuance of any writ or other process.

If there is no Justice of the Superior Court available, the defendant must be retained in custody until the petition can be considered.

B. The petition and such other papers as may accompany it ~~shall~~ must be delivered to the clerk of the Superior Court to which the defendant is transported and upon receipt the clerk shall notify the attorney for the State. ~~The petition shall have priority over any other matter before the Justice of the Superior Court. The Superior Court Justice considering the petition shall issue an order in accordance with~~ shall review the petition de novo and set bail in any manner authorized by section 1026.

C. Upon receipt of a pro se petition or upon oral or written request of the attorney for the defendant, the clerk shall set a time for hearing and provide oral or written notice to the attorney for the State. The hearing must be scheduled for a time not less than 24 hours nor more than 48 hours after the clerk notifies the attorney for the State.

**2. By defendant not in custody.** Any defendant ~~who is not in custody but who is aggrieved by the refusal a decision of a Judge of the District Court or a bail commissioner to authorize the defendant's release on personal recognizance or on the execution of an unsecured bond, and who is not in custody as a result of that refusal, acting under section 1026~~ may petition the Superior Court for a de novo determination of bail. The Superior Court Justice shall review the petition de novo and set bail in any manner authorized by section 1026. The petition ~~shall~~ must be considered as scheduled by the clerk.

**3. No further relief.** The determination by the Superior Court under this section is final and no further relief is available.

See title page for effective date.

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**CHAPTER 67**

**H.P. 330 - L.D. 422**

**An Act To Honor Purple Heart Award Recipients**

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

**Sec. 1. 29-A MRSA §515-B, first ¶,** as amended by PL 2001, c. 361, §10, is further amended to read:

The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482 ~~and the registration fee required by section 515,~~ shall issue a registration certificate and a Purple Heart motorcycle registration plate, to be used in lieu of a regular registration plate, to a person who is a Purple Heart medal recipient. Notwithstanding section 468, the Secretary of State may issue fewer than 2,000 of the plates authorized by this section, and this plate does not require a sponsor.

**Sec. 2. 29-A MRSA §524, sub-§4,** as amended by PL 2001, c. 155, §2, is further amended to read:

**4. Purple Heart medal recipients; special license plates.** The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482 ~~and the registration fee required by section 501,~~ shall issue a registration certificate and a set of Purple Heart registration plates, to be used in lieu of regular registration plates, to a person who is a Purple Heart medal recipient.

An application for Purple Heart plates must be accompanied by proof that the applicant has been awarded the Purple Heart medal. The Secretary of State shall verify the documentation presented by the applicant. Misrepresentation of documents is in violation of section 2103, subsection 5.

The Secretary of State may ~~only~~ issue Purple Heart plates for display only on an automobile or pickup truck. A Purple Heart recipient may be issued Purple Heart plates for no more than 2 vehicles.

The surviving spouse of a Purple Heart recipient issued plates in accordance with this subsection may retain and display the Purple Heart plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the Purple Heart plates on a motor vehicle, but may retain them as a keepsake. Upon the death of the surviving spouse, the family may retain the Purple Heart plates, but may not use them on a motor vehicle.

The Secretary of State shall determine the design of the Purple Heart plate. Upon request and as provided by section 453, the Secretary of State shall issue Purple Heart plates that are also vanity plates. Purple Heart vanity plates are issued in accordance with this section and section 453. The annual service fee of \$15 for vanity plates is credited to the Highway Fund.

A Purple Heart recipient or the surviving spouse of a Purple Heart recipient who does not operate a motor vehicle or register a motor vehicle and who otherwise