

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 2. 24-A MRSA §2835, as amended by PL 2003, c. 517, Pt. B, §13, is further amended to read:

§2835. Mental health services

1. Notwithstanding any provision of a health insurance policy or certificate issued under a group policy subject to this chapter, whenever the policy provides for payment or reimbursement for services 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;~~ a licensed pastoral counselor licensed as a pastoral 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 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;~~ a licensed pastoral counselor licensed as a pastoral 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. Payment or reimbursement for services rendered by clinical social workers licensed in this State, licensed clinical professional counselors licensed in this State, licensed pastoral 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 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 licensed pastoral 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.** Except as provided in subsection 1 with regard to reimbursement of clinical professional counselors and pastoral 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 policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 3. 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, 2006. 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 215

H.P. 701 - L.D. 1017

**An Act To Monitor the Distribution
of Land Acquisitions**

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

Sec. 1. 5 MRSA §6206, sub-§1, ¶E, as amended by PL 2001, c. 548, §2, is further amended to read:

E. On January 1st of every odd-numbered year, report to the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands on expenditures from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund and revisions to the strategies and guidelines. This report must include a description of access to land and interest in land acquired during the report period. If an acquisition has been made that does not include guaranteed public vehicular access to the land acquired, the board must provide justification for that acquisition and a plan for continuing efforts to acquire guaranteed public access to the land. This report must include a summary of the board's experience during the reporting period with projects funded pursuant to section 6203 or 6203-A and in which the land or interest in land is acquired by a cooperating entity. This report must also include on a county-by-county basis a summary of the expenditures made by the board and acreage conserved through acquisition of fee or less-than-fee interest by the board during the report period. Each report must include cumulative totals by county of acreage conserved through acquisition of fee or less-than-fee interest through action by the board.

See title page for effective date.

CHAPTER 216

S.P. 141 - L.D. 417

**An Act To Improve the Role of
Boards of Visitors for State
Correctional Facilities**

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

Sec. 1. 34-A MRSA §3002, as amended by PL 1989, c. 503, Pt. B, §159, is repealed and the following enacted in its place:

§3002. Boards of visitors

1. Appointment. The Governor shall appoint a board of 5 visitors for each correctional facility under the department, as authorized by Title 5, section 12004-I, subsection 5.

A. The terms of the members of the boards of visitors are for 3 years.

B. Members of the boards of visitors are eligible for reappointment at the expiration of their terms.

C. A member of the Legislature or an employee of the department may not serve on any board of visitors.

D. At least one member of each board must be a person licensed by this State to provide mental health services.

E. Each member of the boards of visitors must be compensated according to the provisions of Title 5, chapter 379.

F. The Governor shall appoint a chair from the membership.

2. Duties. Boards of visitors have the following duties.

A. Each board of visitors shall inspect the correctional facility to which it is assigned. Each board of visitors must be provided open access to all physical areas of the correctional facility, including access to areas housing clients. Each board of visitors must be provided the opportunity to speak to clients and to staff. Members of the board shall comply with all departmental policies and procedures and facility security practices regarding access to the correctional facility, shall adhere to all federal and state law regarding confidentiality and shall refer concerns or complaints regarding specific individuals to the chief administrative officer or advocate.

B. Each board of visitors shall review the management of the correctional facility to which it is assigned to determine whether that management is consistent with the philosophy, mission and policy goals of the department and facility. Each board of visitors shall prepare an annual report including its recommendations and shall provide copies of its report to the chief administrative officer of the facility, the commissioner and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The commissioner shall provide copies with the department's response to the reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters within one month of receiving the annual reports.

C. Each board of visitors shall appear before the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters upon request.