

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**June 19, 2018 to September 13, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**DECEMBER 13, 2018**

**ONE HUNDRED AND TWENTY-NINTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2018 to June 20, 2019**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 2019**

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

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**Augusta, Maine**  
**2019**

occupational therapist," "occupational therapy assistant" or "~~certified licensed~~ occupational therapy assistant" or the letters "O.T.," "~~O.T.R.~~," "O.T.A.," "~~C.O.T.A.~~" or other words or letters to indicate that the person using the words or letters is a licensed occupational therapist or ~~certified licensed~~ occupational therapy assistant, or that may misrepresent to the public that the person has received formalized training in the field of occupational therapy, unless that person is licensed in accordance with this chapter.

This subsection is not intended to prohibit occupational therapy students and occupational therapy assistant students completing fieldwork from using the letters "O.T.S." and "O.T.A.S." respectively.

**Sec. 11. 32 MRSA §2279, sub-§1**, as enacted by PL 1983, c. 746, §2, is repealed.

**Sec. 12. 32 MRSA §2281**, as amended by PL 2013, c. 217, Pt. J, §3, is further amended to read:

**§2281. Waiver of requirements for licensure**

The board shall grant a license to any person who, prior to July 25, 1984, successfully completed an examination administered by the Psychological Corporation under contract with the American Occupational Therapy Certification Board if that person meets the requirements of section 2279, ~~subsections 1 and subsection 3~~.

**Sec. 13. 32 MRSA §2282**, as amended by PL 2007, c. 402, Pt. L, §7, is repealed.

**Sec. 14. 32 MRSA §2283, sub-§3**, as amended by PL 1991, c. 509, §17, is repealed.

**Sec. 15. 32 MRSA §2284, sub-§2**, as enacted by PL 1997, c. 294, §11, is repealed.

**Sec. 16. 32 MRSA §2285**, as repealed and replaced by PL 2007, c. 402, Pt. L, §10 and amended by PL 2011, c. 286, Pt. B, §5, is further amended to read:

**§2285. Fees**

~~The Director of the Office of Professional and Occupational Regulation within the department director~~ may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$120. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 17. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 32, in the chapter headnote, the words "occupational therapists" are amended to read "occupational therapy practice" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

**CHAPTER 288**  
**H.P. 1078 - L.D. 1476**

**An Act To Clarify Recounts in Municipal Elections**

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

**Sec. 1. 30-A MRSA §2531-B**, as amended by PL 2017, c. 191, §1, is repealed and the following enacted in its place:

**§2531-B. Recount of an election for office**

This section governs all recounts in any election for municipal office.

**4. Recount request and procedure.** A candidate, including a write-in candidate, other than the declared winner in an election may apply to the municipal clerk in writing for a recount. Written recount requests must be received by the clerk within 5 business days after the day of the contested election or within 5 business days after an inspection pursuant to section 2530-A in order to be valid.

**5. Public proceeding.** A recount is a public proceeding open to public attendance, subject to reasonable restrictions necessary to protect recount integrity or resulting from space limitations.

**6. Recount security.** The municipal clerk shall maintain control over the ballots and other recount materials. No recount personnel other than the clerk may have access to the areas where ballots are stored unless accompanied by the clerk or the clerk's designee. A person who causes a disruption of the recount process may be removed from the area at the discretion of the clerk.

**7. Amount of deposit.** A candidate requesting a recount shall pay a deposit to the municipal clerk when the recount is requested in an amount determined by the municipal clerk, which must be at least 50% of the reasonable estimate of the cost to the municipality performing the recount.

**8. Deposit not required.** Notwithstanding subsection 7, a deposit is not required for a recount if the percentage difference of the total votes of the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate

requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.

**9. Forfeiture or refund of deposit.** If a recount changes the result of an election, a deposit under subsection 7 must be returned to the candidate who paid the deposit. If the recount does not change the result of the election, the municipality shall calculate the actual cost to the municipality of performing the recount. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate who paid the deposit. If the actual cost was greater than the deposit, the candidate who requested the recount shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 8 may not be charged for the recount regardless of whether the recount changes the result of the election.

**10. Date of recount and notice.** When a recount request has been filed pursuant to subsection 4, along with a deposit if a deposit is required pursuant to subsection 7, the municipal clerk immediately shall set a date for the recount, which must be held as soon as reasonably possible at a date and time that affords the candidate who requested the recount a reasonable opportunity to be present. The municipal clerk shall notify the public, the municipal officers, the candidate who filed the recount request and all other candidates on that election ballot of the recount date and location. Notice must be posted pursuant to Title 1, section 406.

**11. Procedure at recount.** A recount in an election of a municipal officer must be conducted according to the procedures in this subsection unless the municipal legislative body adopts the recount procedures of Title 21-A, section 737-A and the rules adopted pursuant to that section, except that Title 21-A, section 737-A, subsections 1, 5 and 12 and the duties of the State Police do not apply.

A. The municipal clerk shall publicly explain the recount procedure at the start of the recount and shall supervise the sorting and hand counting of the votes in public with assistance from counters appointed by the clerk.

B. A candidate may provide counters to conduct the recount under the supervision of the municipal clerk. If an insufficient number of counters is provided, the clerk shall supply counters. Municipal officers and candidates on that election ballot may not serve as counters.

C. The municipal clerk and counters shall follow all applicable laws and the rules for determining voter intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6.

D. If any ballots are disputed as to voter intent, the candidates may resolve the dispute by consensus in accordance with rules for determining voter

intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6. If consensus cannot be reached, those disputed ballots must be set aside. If the number of disputed ballots potentially affects the outcome of the recount, the municipal clerk shall forward the disputed ballots to the clerk of the nearest Superior Court in the county in which the election was held.

E. Upon written request, the municipal clerk shall make the incoming voting list and absentee ballot materials, along with all records required by law to be kept in connection with the election, available for inspection, unless those materials have been requested as part of a state recount.

F. After the recount, the municipal clerk shall re-seal the package of ballots and incoming voting list and shall note on the package the fact that the recount was held and the date of the recount.

G. In order to withdraw from a recount, a candidate must notify the municipal clerk of the intent to withdraw and the reason for withdrawal. The notice must be signed by the candidate, notarized and delivered to the municipal clerk prior to or during the scheduled recount. In the event of a withdrawal, the final election day tabulation is considered the final result.

**12. Results of recount.** Within 24 hours after the results of the recount are determined, the municipal clerk shall prepare, sign and issue a final recount tabulation.

**Sec. 2. 30-A MRSA §2532,** as amended by PL 2017, c. 191, §2, is further amended to read:

**§2532. Referendum recount procedure**

In the case of a referendum, a recount must be granted upon written application of 10% or 100, whichever is less, of the registered voters in the municipality. The application must designate a person to be the official representative of the registered voters requesting the recount including the person's legal name, mailing address, residence address and telephone number. An official representative for the registered voters opposing the recount may be established by submission of an affidavit signed by 10 registered voters of the municipality. The time limits, rules and all other matters applying to candidates under section 2531-B apply equally to applicants for the recount. ~~Except as otherwise provided in this section, the method of conducting a referendum recount is governed by Title 21-A, section 737-A a referendum recount, except that provisions in section 2531-B applicable to the candidate requesting the recount and candidates not requesting the recount apply, for purposes of this section, to the official representative of the referendum recount and the official representative, if any, of the voters opposed to the recount, respectively.~~

See title page for effective date.

**CHAPTER 289**  
**S.P. 383 - L.D. 1263**

**An Act Regarding Telehealth**

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

**Sec. 1. 24 MRSA §2904, sub-§1, ¶A**, as amended by PL 2017, c. 396, §1, is further amended to read:

A. A licensed health care practitioner who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services, including services provided through telehealth as defined in Title 24-A, section 4316, subsection 1, paragraph E, within the scope of that health care practitioner's licensure:

- (1) To a nonprofit organization;
- (2) To an agency of the State or any political subdivision of the State;
- (3) To members or recipients of services of a nonprofit organization or state or local agency;
- (4) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;
- (5) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or
- (6) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2;

**Sec. 2. 24-A MRSA §4316**, as enacted by PL 2009, c. 169, §1, is repealed and the following enacted in its place:

**§4316. Coverage for telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Mobile health device" means a wearable device used to track health and wellness, including, but not limited to, a heart rate and respiratory monitor, an electrocardiogram monitor and a glucose monitor.

B. "Store and forward transfers" means transmission of an enrollee's recorded health history through a secure electronic system to a provider.

C. "Telehealth," as it pertains to the delivery of health care services, means the use of interactive

real-time visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management and self-management of an enrollee's physical and mental health and includes real-time interaction between the enrollee and the telehealth provider, synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring. "Telehealth" does not include the use of audio-only telephone, facsimile machine, e-mail or texting.

D. "Telemonitoring," as it pertains to the delivery of health care services, means the use of information technology to remotely monitor an enrollee's health status via electronic means through the use of clinical data while the enrollee remains in a residential setting, allowing the provider to track the enrollee's health data over time. Telemonitoring may or may not take place in real time.

E. "Telephonic services," as it pertains to the delivery of health care services, means the use of telephone communication by a provider at a distance for the purpose of diagnosis, disease monitoring or treatment.

**2. Parity for telehealth services.** A carrier offering a health plan in this State may not deny coverage on the basis that the health care service is provided through telehealth if the health care service would be covered if it was provided through in-person consultation between an enrollee and a provider. Coverage for health care services provided through telehealth must be determined in a manner consistent with coverage for health care services provided through in-person consultation. If an enrollee is eligible for coverage and the delivery of the health care service through telehealth is medically appropriate, a carrier may not deny coverage for telehealth services. A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to a comparable service provided through in-person consultation. A carrier may not exclude a health care service from coverage solely because such health care service is provided only through a telehealth encounter, as long as telehealth is appropriate for the provision of such health care service.

**3. Coverage for telehealth services.** Except as provided in this section, a carrier shall provide coverage for any medically necessary health care service delivered through telehealth as long as the following requirements are met.

A. The health care service is otherwise covered under an enrollee's health plan.