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## **An Act To Expand the Pool of Qualified Mental Health Examiners for Purposes of Involuntary Treatment**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** Public Law 2007, chapter 446 requires, in cases of involuntary treatment of mental health patients, that one of the examiners, either a licensed physician or clinical psychologist, be licensed to prescribe medications for the patient's care; and

**Whereas,** the effect of this change was to require that at least one of the 2 examiners be a licensed physician since clinical psychologists are not licensed to prescribe medications; and

**Whereas,** under the other changes made to the involuntary treatment laws, it is expected that the number of mental health examinations will increase and more qualified examiners will be needed; and

**Whereas,** meeting that need will be a serious problem based on the current limitations; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 34-B MRSA §3864, sub-§4, ¶A,** as amended by PL 2007, c. 446, §3 and affected by §7, is further amended to read:

A. Upon receipt by the District Court of the application and the accompanying documents specified in subsection 1 and at least 3 days after the person who is the subject of the examination was notified by the psychiatric hospital of the proceedings and of that person's right to retain counsel or to select an examiner, the court shall cause the person to be examined by 2 examiners.

(1) ~~Each~~ Except as provided in subparagraph (1-A), each examiner must be either a licensed physician or a licensed clinical psychologist. ~~When involuntary treatment under subsection 1-A has been requested, one of the examiners must be a professional who is licensed to prescribe medications relevant to the patient's care.~~

(1-A) If the application requests an order for involuntary treatment pursuant to subsection 1-A, one examiner must be a licensed physician or a licensed clinical psychologist and one examiner must be a person who is qualified to prescribe medication relevant to the patient's care as a licensed physician, certified nurse practitioner, advanced practice registered nurse or registered physician assistant.

(2-A) If the person under examination or the counsel for that person selects a qualified examiner who is reasonably available, then the court shall choose that examiner as one of the 2 designated by the court.

(3) Neither examiner appointed by the court may be the certifying examiner under section 3863, subsection 2 or 7.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

## SUMMARY

Under the changes made by Public Law 2007, chapter 446, scheduled to take effect January 1, 2008, one of the examiners, either a licensed physician or clinical psychologist, in cases of involuntary treatment of mental health patients, must be licensed to provide medications for the patient's care. Since clinical psychologists are not licensed to prescribe medication, the effect of this change is to require at least one of the 2 examiners to be a licensed physician. This requirement seriously limits the pool of professionals who qualify to perform examinations.

This bill alleviates the shortage by adding to the list of professionals qualified to perform mental health examinations for purposes of involuntary treatment applications certified nurse practitioners, advanced practice registered nurses and registered physician assistants.