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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 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.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative 0063

Initiative: Deappropriates funds in fiscal years 2007-08 and 2008-09 rendered unnecessary by expansion of the pool of less expensive professionals eligible to perform examinations and provide medication in cases of involuntary treatment of mental health patients.

GENERAL FUND	2007-08	2008-09
All Other	(\$40,000)	(\$40,000)
GENERAL FUND TOTAL	<hr/> (\$40,000)	<hr/> (\$40,000)

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

Effective January 10, 2008.