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## **An Act To Require a Mandatory Peer Review Process for the Restraint and Seclusion of Children in a Hospital or Children's Home**

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

**Sec. 1. 34-B MRSA §5605, sub-§13, ¶B,** as amended by PL 2011, c. 657, Pt. EE, §9, is further amended to read:

B. Behavior modification and behavior management programs may be used only to correct behavior more harmful to the person than the program and only:

(1) On the recommendation of the person's personal planning team;

(2) For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of a representative from the department, a representative from the advocacy agency designated pursuant to Title 5, section 19502 and a representative designated by the Maine Developmental Services Oversight and Advisory Board; and

(3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of a representative from the advocacy agency designated pursuant to Title 5, section 19502, a team leader of the department's children's services division ~~and~~ the children's services medical director or the director's designee and a physician other than the attending physician. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in nonmedical community-based facilities funded under the Medicaid program.

**Sec. 2. 34-B MRSA §6203, sub-§1, ¶K,** as amended by PL 1993, c. 624, §3, is further amended to read:

K. Establish a procedure to obtain assistance and advice from consumers of mental health services regarding the selection of contractors when requests for proposals are issued for mental health services; ~~and~~

**Sec. 3. 34-B MRSA §6203, sub-§1, ¶L,** as enacted by PL 1993, c. 624, §4, is amended to read:

L. Require that a contract under this subsection that is subject to renewal be awarded through a request-for-proposal procedure if the department determines that:

(1) The provider has breached the existing contract;

(2) The provider has failed to correct deficiencies cited by the department;

(3) The provider is inefficient or ineffective in the delivery of services and is unable or unwilling to improve its performance within a reasonable time; or

(4) The provider can not or will not respond to a reconfiguration of service delivery requested by the department; and

**Sec. 4. 34-B MRSA §6203, sub-§1, ¶M** is enacted to read:

M. Establish a procedure for reviewing the use of restraint and seclusion for children receiving services in a hospital licensed under Title 22, chapter 405 or in a children's home licensed under Title 22, chapter 1669, including a mandatory review process by the review team established under section 5605, subsection 13, paragraph B for the use of restraint or seclusion 4 or more times for the same child.

## SUMMARY

This bill requires the Commissioner of Health and Human Services to establish a procedure for reviewing the use of restraint and seclusion for children receiving services in a hospital or children's home, including a mandatory review process for the repeated use of restraint or seclusion. It also adds a physician, other than the attending physician, to the review team that reviews behavior modification and behavior management programs for children under 18 years of age.