MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1739

H.P. 1261

House of Representatives, December 22, 2003

An Act To Clarify the Requirements of the Behavioral Treatment Review Team for Persons with Mental Retardation or Autism

Submitted by the Department of Behavioral and Developmental Services pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millient M. Macfarland MILLICENT M. MacFARLAND Clerk

Presented by Representative O'BRIEN of Augusta.

_	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 34-B MRSA §5605, sub-§13, ¶B, as amended by PL 2003,
4	c. 368, §1, is further amended to read:
6	B. Treatment programs involving the use of noxious or painful stimuli or other aversive or severely intrusive
8	techniques may be used only to correct behavior more harmful to the person with mental retardation or autism than is the
10	treatment program and only:
12	 On the recommendation of a physician, psychiatrist or psychologist; and
14	(2) With For an adult 18 years of age or older, with
16	the approval, following a case-by-case review, of an advocate of the department; a representative of the
18	Division of Mental Retardation; and a representative of the Consumer Advisory Board.
20	(3) For a child under 18 years of age, with the
22	approval, following a case-by-case review, of a review team composed of an advocate of the department, a team
24	leader of the department's children's services division and the children's services medical director or the
26	director's designee. Until rules are adopted by the department to govern such reviews, the team may not
28	approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the
30	United States Department of Health and Human Services for use in nonmedical community-based facilities for
32	children and youth funded under the Medicaid program.
34	For a child under 18 years of age, the team may not approve the use of seclusion or any noxious or painful
36	stimuli as one or part of an aversive or intrusive technique to correct behavior.
38	The department may adopt rules as necessary to implement
40	this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter
42	375. subchapter 2-A.
44	SUMMARY
46	
48	This bill establishes requirements for approval of a behavioral treatment program involving the use of aversive or severely intrusive techniques for a person with mental
50	severely intrusive techniques for a person with mental retardation or autism who is under 18 years of age.