

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1031

H.P. 726

House of Representatives, March 14, 2013

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

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SIROCKI of Scarborough.
Cosponsored by Representatives: BENNETT of Kennebunk, MAKER of Calais, REED of
Carmel.

1 **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 2011, c. 657, Pt.
3 EE, §9, is further amended to read:

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

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

7 (2) For an adult 18 years of age or older, with the approval, following a case-by-
8 case review, of a review team composed of a representative from the department,
9 a representative from the advocacy agency designated pursuant to Title 5, section
10 19502 and a representative designated by the Maine Developmental Services
11 Oversight and Advisory Board; and

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

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

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

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

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

32 (1) The provider has breached the existing contract;

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

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

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

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

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

6 **SUMMARY**

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