

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 38

S.P. 46

In Senate, January 13, 2021

**An Act To Clarify the Timing of an Appeal of a Finding Regarding
Involuntary Mental Health Treatment at a Designated Nonstate
Mental Health Institution**

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Received by the Secretary of the Senate on January 11, 2021. Referred to the Committee
on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CLAXTON of Androscoggin.

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

2 **Sec. 1. 34-B MRSA §3861, sub-§3, ¶F**, as amended by PL 2011, c. 657, Pt. DD,
3 §4, is further amended to read:

4 F. The provisions of this paragraph apply to the review and appeal of an order of the
5 clinical review panel entered under paragraph B.

6 (1) The order of the clinical review panel at a state mental health institute is final
7 agency action that may be appealed to the Superior Court in accordance with Rule
8 80C of the Maine Rules of Civil Procedure.

9 (2) The order of the clinical review panel at a designated nonstate mental health
10 institution may be reviewed by the commissioner or the commissioner's designee
11 upon receipt of a written request from the patient submitted no later than one
12 business day after the patient receives the order of the clinical review panel. Within
13 3 business days of receipt of the request for review, the designated nonstate mental
14 health institution shall submit the full clinical review panel record to the
15 commissioner or the commissioner's designee. Within 3 business days of receipt
16 of the request for review, the patient and the designated nonstate mental health
17 institution may submit written arguments to the commissioner or the
18 commissioner's designee. The commissioner or the commissioner's designee shall
19 review the full clinical review panel record and issue a written decision and any
20 written arguments submitted pursuant to this subparagraph for abuse of discretion,
21 error of law or findings not supported by substantial evidence in the record. Within
22 4 business days of the receipt of the full clinical review panel record and any
23 written arguments, the commissioner or the commissioner's designee shall issue a
24 decision. The decision of the commissioner or the commissioner's designee may
25 affirm the order, modify the order or vacate the order. The decision of the
26 commissioner or the commissioner's designee takes effect one business day after
27 the commissioner or the commissioner's designee issues a written decision. The
28 decision of the commissioner or the commissioner's designee is final agency action
29 that may be appealed to the Superior Court in accordance with Rule 80C of the
30 Maine Rules of Civil Procedure.

31 **SUMMARY**

32 This bill amends the process governing a request for review by the Commissioner of
33 Health and Human Services or the commissioner's designee of an order of a clinical review
34 panel regarding involuntary mental health treatment at a designated nonstate mental health
35 institution.