1	L.D. 1598
2	Date: (Filing No. H-)
3	HEALTH AND HUMAN SERVICES
4	Reproduced and distributed under the direction of the Clerk of the House.
5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	126TH LEGISLATURE
8	SECOND REGULAR SESSION
9 10 11	COMMITTEE AMENDMENT "" to H.P. 1169, L.D. 1598, Bill, "An Act To Improve Hospital-based Behavioral Health Treatment for Persons with Intellectual Disabilities or Autism"
12 13	Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:
14 15	'Sec. 1. 34-B MRSA §5605, sub-§13, as amended by PL 2013, c. 310, §7, is further amended to read:
16 17 18 19	<b>13.</b> Behavioral support, modification and management. Behavior modification and behavior management of and supports for a person with an intellectual disability or autism who is not a patient in a psychiatric unit of an acute hospital or a psychiatric hospital as defined in section 3801, subsection 7-B are governed as follows.
20 21 22 23 24	A. A person with an intellectual disability or autism may not be subjected to a behavior modification or behavior management program to eliminate dangerous or maladaptive behavior without first being assessed by a physician to determine if the proposed program is medically contraindicated and that the dangerous or maladaptive behavior could not be better treated medically.
25 26	A-1. Support programs may contain both behavior modification and behavior management components.
27 28	A-2. The following practices are prohibited as elements of behavior modification or behavior management programs:
29	(1) Seclusion;
30	(2) Corporal punishment;
31	(3) Actions or language intended to humble, dehumanize or degrade the person;
32	(4) Restraints that do not conform to rules adopted pursuant to this section;
33	(5) Totally enclosed cribs or beds; and

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(6) Painful stimuli.

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

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

5 (2) For an adult 18 years of age or older, with the approval, following a case-bycase review, of a review team composed of a representative from the department, 6 a representative from the advocacy agency designated pursuant to Title 5, section 7 19502 and a representative designated by the Maine Developmental Services 8 9 Oversight and Advisory Board. The advocacy agency representative serves as a 10 nonvoting member of the review team and shall be present to advocate on behalf of the person. The department shall provide sufficient advance notice of all 11 scheduled review team meetings to the advocacy agency and provide the 12 advocacy agency with any plans for which approval is sought along with any 13 supporting documentation; and 14

15 (3) For a child under 18 years of age, with the approval, following a case-bycase review, of a review team composed of a representative from the advocacy 16 agency designated pursuant to Title 5, section 19502, a team leader of the 17 department's children's services division and the children's services medical 18 director or the director's designee. The advocacy agency representative serves as 19 a nonvoting member of the review team and shall be present to advocate on 20 behalf of the person. The department shall provide sufficient advance notice of 21 22 all scheduled review team meetings to the advocacy agency and provide the advocacy agency with any plans for which approval is sought along with any 23 supporting documentation. Until rules are adopted by the department to govern 24 25 behavioral treatment reviews for children, the team may not approve techniques 26 any more aversive or intrusive than are permitted in rules adopted by the 27 Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in nonmedical community-based 28 29 facilities funded under the Medicaid program.'

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## SUMMARY

This amendment clarifies that the provisions governing behavioral support, modification and management do not apply to a person who is a patient in a psychiatric unit of an acute hospital or a psychiatric hospital as defined in the Maine Revised Statutes, Title 34-B, section 3801, subsection 7-B. It removes the changes made by the bill that indicate a licensed psychologist must be a part of the review team overseeing behavior modification and behavior management programs.

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