

# HOUSE BILL 1792

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By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health)**

Introduced and read first time: March 2, 2018

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Department of Health – Deputy Secretary for Operations and**  
3 **Director of the Behavioral Health Administration – Repeal of Positions**

4 FOR the purpose of repealing the position of Deputy Secretary for Operations in the  
5 Maryland Department of Health; repealing the position of Director of the Behavioral  
6 Health Administration in the Maryland Department of Health; requiring the Deputy  
7 Secretary for Behavioral Health to perform the duties assigned to the former  
8 Director of the Behavioral Health Administration; making conforming changes; and  
9 generally relating to the reorganization of duties in the Maryland Department of  
10 Health.

11 BY repealing and reenacting, with amendments,

12 Article – Health – General

13 Section 2–103(a), 4–307(a)(4) and (k)(1)(v), 5–703(a)(12), 5–808(b)(1), 7.5–101(h),  
14 7.5–202 through 7.5–204, 7.5–303(a)(1)(iii), 8–101(h), 8–502.1(b)(4), 10–101(f),  
15 10–308(c), 10–312(b)(4)(i)7., 10–401, 10–407, 10–408, 10–420, 10–423(a),  
16 10–701(h)(1)(ii)2. and (2), 10–711, 10–802, 10–807(b), (c), (f), and (h),  
17 10–808(b) and (c), 10–812(d), 10–903(a) and (b), 10–921, 10–923(b) and (d),  
18 10–924(a) and (b)(1), 10–925(a) and (c), 10–1202(a)(4) and (d)(1), (3), and (4),  
19 and 10–1203

20 Annotated Code of Maryland

21 (2015 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article – Health – General

24 Section 4–307(a)(1), 7.5–101(a), 8–101(a), 10–101(a), 10–308(a), and 10–807(a)

25 Annotated Code of Maryland

26 (2015 Replacement Volume and 2017 Supplement)

27 BY repealing and reenacting, without amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Public Safety  
 2 Section 1–401(a)  
 3 Annotated Code of Maryland  
 4 (2011 Replacement Volume and 2017 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article – Public Safety  
 7 Section 1–401(b)(7)  
 8 Annotated Code of Maryland  
 9 (2011 Replacement Volume and 2017 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 11 That the Laws of Maryland read as follows:

12 **Article – Health – General**

13 2–103.

14 (a) (1) With the approval of the Governor, the Secretary shall appoint the  
 15 following **[five]** deputy secretaries:

16 (i) The Deputy Secretary for Behavioral Health;

17 (ii) The Deputy Secretary for Health Care Financing;

18 (iii) **[The Deputy Secretary for Operations;**

19 (iv)] The Deputy Secretary for Public Health Services; and

20 **[(v)] (IV)** The Deputy Secretary for Developmental Disabilities.

21 (2) The deputy secretaries serve at the pleasure of the Secretary.

22 (3) The deputy secretaries are entitled to the salary provided in the State  
 23 budget.

24 (4) The deputy secretaries have the duties provided by law or delegated by  
 25 the Secretary.

26 4–307.

27 (a) (1) In this section the following words have the meanings indicated.

28 (4) **["Director"] "DEPUTY SECRETARY"** means the **[Director of the**  
 29 **Behavioral Health Administration] DEPUTY SECRETARY FOR BEHAVIORAL HEALTH**  
 30 **or the designee of the [Director] DEPUTY SECRETARY.**

1 (k) (1) A health care provider shall disclose a medical record without the  
2 authorization of a person in interest:

3 (v) In accordance with a subpoena for medical records on specific  
4 recipients:

5 1. To health professional licensing and disciplinary boards  
6 for the sole purpose of an investigation regarding licensure, certification, or discipline of a  
7 health professional or the improper practice of a health profession; and

8 2. To grand juries, prosecution agencies, and law  
9 enforcement agencies under the supervision of prosecution agencies for the sole purposes  
10 of investigation and prosecution of a provider for theft and fraud, related offenses,  
11 obstruction of justice, perjury, unlawful distribution of controlled substances, and of any  
12 criminal assault, neglect, patient abuse or sexual offense committed by the provider against  
13 a recipient, provided that the prosecution or law enforcement agency shall:

14 A. Have written procedures which shall be developed in  
15 consultation with the [Director] **DEPUTY SECRETARY** to maintain the medical records in  
16 a secure manner so as to protect the confidentiality of the records; and

17 B. In a criminal proceeding against a provider, to the  
18 maximum extent possible, remove and protect recipient identifying information from the  
19 medical records used in the proceeding; or

20 5-703.

21 (a) The State Team shall be a multidisciplinary and multiagency review team,  
22 composed of at least 25 members, including:

23 (12) The [Director of the Behavioral Health Administration of the  
24 Department] **DEPUTY SECRETARY FOR BEHAVIORAL HEALTH** or the [Director's]  
25 **DEPUTY SECRETARY'S** designee;

26 5-808.

27 (b) (1) In addition to the public report issued under subsection (a) of this  
28 section, the Committee or its subcommittee may at any time issue preliminary findings or  
29 make preliminary recommendations to the Secretary, the Secretary of Disabilities, the  
30 Director of the Developmental Disabilities Administration, the [Director of the Behavioral  
31 Health Administration] **DEPUTY SECRETARY FOR BEHAVIORAL HEALTH**, or to the  
32 Director of the Office of Health Care Quality.

33 7.5-101.

1 (a) In this title the following words have the meanings indicated.

2 (h) ["Director"] "**DEPUTY SECRETARY**" means the [Director of the  
3 Administration] **DEPUTY SECRETARY FOR BEHAVIORAL HEALTH, OR THE DEPUTY**  
4 **SECRETARY'S DESIGNEE.**

5 7.5-202.

6 [(a)] The head of the Administration is the [Director] **DEPUTY SECRETARY** and  
7 shall be appointed by the Secretary.

8 [(b)] The Director serves at the pleasure of the Secretary.

9 (c) The Director is entitled to the salary provided in the State budget.]

10 7.5-203.

11 [(a)] (1) The Director exercises the powers, duties, and responsibilities of office  
12 subject to the authority of the Secretary.

13 (2) The Director shall report to the Deputy Secretary for Behavioral  
14 Health.]

15 [(b)] The Secretary may exercise any power or perform any duty of the  
16 Administration.

17 7.5-204.

18 (a) The [Director] **DEPUTY SECRETARY** is responsible for carrying out the  
19 powers, duties, and responsibilities of the Administration.

20 (b) In addition to the powers set forth elsewhere in this title, the [Director]  
21 **DEPUTY SECRETARY** may:

22 (1) Within the amounts made available by appropriation or grant, make  
23 any agreement or joint financial arrangement to do or have done anything necessary,  
24 desirable, or proper to carry out the purposes of this title and Titles 8 and 10 of this article;

25 (2) Organize and manage the Administration in a manner that will enable  
26 it best to discharge the duties of the Administration;

27 (3) Appoint the number of assistant directors and staff provided for in the  
28 State budget;

29 (4) Remove an assistant director for incompetence or misconduct; and

1 (5) Unless expressly provided otherwise by law, assign to any subordinate  
2 unit or individual in the Administration any function that is imposed by law on the  
3 [Director] **DEPUTY SECRETARY**.

4 (c) In addition to the duties set forth elsewhere in this title, the [Director]  
5 **DEPUTY SECRETARY** shall do anything necessary or proper to carry out the scope of this  
6 title and Titles 8 and 10 of this article.

7 (d) It is the policy of the State that the [Director] **DEPUTY SECRETARY** may  
8 collaborate with other State agencies to promote coordinated care and treatment of  
9 individuals who have behavioral health disorders.

10 7.5–303.

11 (a) (1) The Council consists of the following members:

12 (iii) [Five] **FOUR** representatives of the Department, including:

13 1. The Secretary, or the Secretary's designee;

14 2. The Deputy Secretary for Behavioral Health, or the  
15 Deputy Secretary's designee;

16 [3. The Director of the Behavioral Health Administration, or  
17 the Director's designee;]

18 [4.] **3.** The Executive Director of the Maryland Health  
19 Benefit Exchange, or the Executive Director's designee; and

20 [5.] **4.** The Deputy Secretary for Health Care Financing, or  
21 the Deputy Secretary's designee;

22 8–101.

23 (a) In this title the following words have the meanings indicated.

24 (h) ["Director"] "**DEPUTY SECRETARY**" means the [Director of the  
25 Administration] **DEPUTY SECRETARY FOR BEHAVIORAL HEALTH**.

26 8–502.1.

27 (b) A program or facility may not admit an individual under this section unless  
28 the program or facility has determined that:

29 (4) Assent to the admission has been given by the [Director] **DEPUTY**  
30 **SECRETARY** or the [Director's] **DEPUTY SECRETARY'S** designee of the program or

1 facility.

2 10–101.

3 (a) In this title the following words have the meanings indicated.

4 (f) [“Director”] **“DEPUTY SECRETARY”** means the [Director of the Behavioral  
5 Health Administration] **DEPUTY SECRETARY FOR BEHAVIORAL HEALTH.**

6 10–308.

7 (a) Except as otherwise provided in subsections (c) and (d) of this section, the  
8 governing body of each county shall establish a mental health advisory committee.

9 (c) The governing bodies of two or more counties may establish, by agreement, an  
10 intercounty mental health advisory committee if:

11 (1) The population of one of the counties is too small to warrant the  
12 establishment of a mental health advisory committee for that county; and

13 (2) The [Director] **DEPUTY SECRETARY** consents.

14 10–312.

15 (b) Each county advisory committee and intercounty advisory committee shall:

16 (4) (i) Prepare and disseminate an annual report to the following:

17 7. The [Director] **DEPUTY SECRETARY**;

18 10–401.

19 The [Director] **DEPUTY SECRETARY** shall supervise generally the operation of all  
20 State facilities.

21 10–407.

22 The [Director] **DEPUTY SECRETARY** shall set standards for admission to a State  
23 facility.

24 10–408.

25 (a) With the advice of the [Director] **DEPUTY SECRETARY**, the Secretary shall  
26 appoint an administrative head for each State facility.

27 (b) Each administrative head shall have the qualifications that the Secretary sets

1 for administrative heads.

2 (c) The [Director] **DEPUTY SECRETARY** may remove an administrative head for  
3 incompetence or misconduct.

4 (d) In addition to any other power or duty that the [Director] **DEPUTY**  
5 **SECRETARY** or Secretary delegates, the administrative head of a State facility shall:

6 (1) Supervise generally the State facility;

7 (2) In accordance with the provisions of the State Personnel and Pensions  
8 Article, appoint a staff for the State facility as needed and as provided in the State budget;  
9 and

10 (3) Report to the [Director] **DEPUTY SECRETARY** as the [Director]  
11 **DEPUTY SECRETARY** requires.

12 10-420.

13 The Executive Board consists of the following 5 ex officio members:

14 (1) The Superintendent of the Center.

15 (2) The Director of Research and Evaluation of the Department.

16 (3) The [Director of Mental Hygiene] **DEPUTY SECRETARY FOR**  
17 **BEHAVIORAL HEALTH**.

18 (4) The Chairman of the Department of Psychiatry.

19 (5) The Dean of the University of Maryland School of Medicine.

20 10-423.

21 (a) By joint action, the [Director] **DEPUTY SECRETARY** and the Chairman of the  
22 Department of Psychiatry shall appoint a superintendent of the Center and may remove  
23 the Superintendent.

24 10-701.

25 (h) (1) Notwithstanding any other provision of law, when the State designated  
26 protection and advocacy agency has received and documented a request for an investigation  
27 of a possible violation of the rights of an individual in a facility that is owned and operated  
28 by the Department or under contract to the Department to provide mental health services  
29 in the community under this subtitle, the executive director of the protection and advocacy  
30 agency or the executive director's designee:

1 (ii) If the individual is unable to give written consent but does not  
2 object to the investigation:

3 2. Shall request, in writing, access to the individual's records  
4 from the [Director of the Behavioral Health Administration] **DEPUTY SECRETARY**.

5 (2) On receipt of the request for access to the individual's records, the  
6 [Director of the Behavioral Health Administration] **DEPUTY SECRETARY** shall authorize  
7 access to the individual's records.

8 10-711.

9 On request, the administrative head of each facility shall give to the [Director]  
10 **DEPUTY SECRETARY** or a representative of the [Director] **DEPUTY SECRETARY**:

11 (1) Any information that the administrative head has about an individual  
12 in the facility;

13 (2) Access to the individual; and

14 (3) Access to any part of the facility.

15 10-802.

16 If the [Director] **DEPUTY SECRETARY** finds that any individual is held by a facility  
17 in a manner contrary to law, the [Director] **DEPUTY SECRETARY** shall begin appropriate  
18 proceedings for release of that individual.

19 10-807.

20 (a) In this section, "public facility" means a facility under § 10-406 of this title  
21 maintained under the direction of the Administration.

22 (b) The [Director] **DEPUTY SECRETARY** may transfer an individual, who is  
23 admitted under Subtitle 6 of this title or committed under Title 3 of the Criminal Procedure  
24 Article, from a public facility to the Clifton T. Perkins Hospital Center, if the [Director]  
25 **DEPUTY SECRETARY** finds that:

26 (1) The individual either can receive better care or treatment in or would  
27 be more likely to benefit from care or treatment at the Clifton T. Perkins Hospital Center;  
28 or

29 (2) The safety or welfare of other individuals would be furthered.

30 (c) (1) Prior to transferring an individual from a public facility to the Clifton



1 T. Perkins Hospital Center, the [Director] **DEPUTY SECRETARY** shall give the individual  
2 notice and an opportunity for a hearing before the Office of Administrative Hearings, unless  
3 the [Director] **DEPUTY SECRETARY** finds that an emergency requires the immediate  
4 transfer of the individual.

5 (2) If the [Director] **DEPUTY SECRETARY** determines that an emergency  
6 requires the immediate transfer of an individual, the individual may be transferred to the  
7 Clifton T. Perkins Hospital Center if the Administration:

8 (i) Provides notice to the individual; and

9 (ii) Schedules a post transfer hearing before the Office of  
10 Administrative Hearings within 10 calendar days after the transfer.

11 (3) A hearing requested by an individual under paragraph (1) of this  
12 subsection shall be convened at the public facility within 30 calendar days after the  
13 individual received notice of the transfer.

14 (f) The [Director] **DEPUTY SECRETARY** may transfer any individual who is a  
15 resident of another state to a facility in that state if the [Director] **DEPUTY SECRETARY**  
16 finds that the transfer is feasible.

17 (h) The [Director] **DEPUTY SECRETARY** may transfer an individual between  
18 public facilities, other than the Clifton T. Perkins Hospital Center, without the consent of  
19 the individual if the [Director] **DEPUTY SECRETARY** finds that administrative or clinical  
20 reasons require a transfer of the individual from the facility.

21 10-808.

22 (b) Whenever the transfer of an individual to a federal agency is planned under  
23 this section, the [Director] **DEPUTY SECRETARY** or administrative head of a facility, with  
24 the consent of the individual, shall notify the parent or next of kin of the individual about  
25 the transfer. In the case of a minor child or an individual who is assigned a legal guardian,  
26 the parent of the minor child or the legal guardian of the individual shall be notified of any  
27 planned transfer.

28 (c) (1) The [Director] **DEPUTY SECRETARY** may transfer an individual from  
29 a facility to a Veterans' Administration hospital in this State, if the individual is entitled  
30 to benefits in that hospital.

31 (2) After the transfer, the chief officer of the Veterans' Administration  
32 hospital has all the powers and rights of the Administration as to that individual.

33 10-812.

34 (d) The [Director of the Behavioral Health Administration] **DEPUTY**

1 **SECRETARY** shall give an individual the opportunity for a hearing on the proposed  
2 transfer.

3 10-903.

4 (a) (1) The governing body of any county may apply for assistance to establish  
5 a mental health program under this part.

6 (2) A county shall apply by submitting annually to the [Director] **DEPUTY**  
7 **SECRETARY**, for approval by the Secretary, a plan and budget for the next fiscal year.

8 (b) The governing bodies of two or more counties may apply for assistance to  
9 establish a community mental health program for the counties if:

10 (1) The population of one of the counties is too small to warrant the  
11 establishment of an independent community mental health program for that county; and

12 (2) The [Director] **DEPUTY SECRETARY** consents.

13 10-921.

14 The [Director] **DEPUTY SECRETARY** shall:

15 (1) Supervise the care and residential treatment of and the programs for  
16 children and adolescents that have mental disorders; and

17 (2) Provide or encourage, by consultation, cooperation, or contract, all  
18 programs needed to ensure that children and adolescents are evaluated appropriately and  
19 provided community-based residential care.

20 10-923.

21 (b) The applicant shall submit a formal, written application to the [Director]  
22 **DEPUTY SECRETARY** that contains the personal information and is on the form required  
23 by the Administration.

24 (d) (1) Within 60 days after the [Director] **DEPUTY SECRETARY** receives an  
25 application for placement of a child or adolescent in a private therapeutic group home, the  
26 [Director] **DEPUTY SECRETARY** or the county health officer shall determine whether the  
27 child or adolescent meets the requirements for placement under this section.

28 (2) If the [Director] **DEPUTY SECRETARY** or county health officer  
29 determines that the child or adolescent meets the requirements under this section, the  
30 [Director] **DEPUTY SECRETARY** or county health officer shall:

31 (i) Approve the application for placement in a private therapeutic

1 group home; and

2 (ii) Determine the date of placement in a private therapeutic group  
3 home in accordance with the plan submitted under § 10–925 of this subtitle.

4 10–924.

5 (a) Each private therapeutic group home shall make and periodically update a  
6 written plan of treatment for each individual in the home, in accordance with rules and  
7 regulations that the [Director] **DEPUTY SECRETARY** adopts.

8 (b) (1) The [Director] **DEPUTY SECRETARY** shall adopt appropriate rules  
9 and regulations to carry out the intent of this section in accordance with current  
10 professional practices.

11 10–925.

12 (a) On or before January 1, 1985, the [Director] **DEPUTY SECRETARY** shall  
13 prepare and submit a plan to the Governor, the President of the Senate, and the Speaker  
14 of the House.

15 (c) The [Director] **DEPUTY SECRETARY** shall:

16 (1) Implement §§ 10–920 through 10–924 and 10–926 of this subtitle upon  
17 completion of the plan to be submitted under this section; and

18 (2) Review and revise periodically the plan submitted under this section.

19 10–1202.

20 (a) A core service agency, local addictions authority, or local behavioral health  
21 authority shall:

22 (4) Annually submit a program plan to the secretaries of the affected State  
23 departments for review and to the [Director] **DEPUTY SECRETARY** for approval; and

24 (d) Once established in a jurisdiction, the core service agency, local addictions  
25 authority, or local behavioral health authority shall:

26 (1) Submit, on an annual basis, a program plan to the [Director] **DEPUTY**  
27 **SECRETARY** for approval;

28 (3) Implement guidelines developed by the [Director] **DEPUTY**  
29 **SECRETARY** which establish or designate the authority of the local mental health advisory  
30 committee, local drug and alcohol abuse council, or joint mental health and  
31 substance-related committee to advise and assist in the planning and evaluation of the

1 publicly funded mental health and substance–related disorder services;

2 (4) In accordance with guidelines developed by the [Director] **DEPUTY**  
3 **SECRETARY**, develop planning, management, and accountability mechanisms for the  
4 delivery of services including:

5 (i) Case management;

6 (ii) Data collection which satisfies the Department’s requirements  
7 for client tracking and incorporates clear outcome measures to enable the local entity to  
8 govern itself and monitor and evaluate the system; and

9 (iii) A yearly summary which includes at a minimum:

10 1. Relevant financial statements; and

11 2. Program evaluation reports which articulate the core  
12 service agency’s, local addictions authority’s, or local behavioral health authority’s ability  
13 to identify the outcomes of services provided for the target populations and the effects of  
14 those services on program planning for the target population;

15 10–1203.

16 (a) To the extent resources are available, the [Director] **DEPUTY SECRETARY**,  
17 after consultation with the Behavioral Health Advisory Council as established in Title 7.5,  
18 Subtitle 3 of this article and federal requirements mandated under P.L. 99–660, may  
19 initiate the development of core service agencies, local addictions authorities, or local  
20 behavioral health authorities as a mechanism for community planning, management, and  
21 financing of mental health and substance–related disorder services.

22 (b) When core service agencies, local addictions authorities, or local behavioral  
23 health authorities are initiated, the [Director] **DEPUTY SECRETARY** shall:

24 (1) Define the priority populations to be served by the core service agencies,  
25 local addictions authorities, or local behavioral health authorities;

26 (2) Define the essential mental health, substance–related disorder, and  
27 associated support services to be provided under the auspices of the core service agencies,  
28 local addictions authorities, or local behavioral health authorities;

29 (3) Define the essential administrative functions to be carried out by core  
30 service agencies, local addictions authorities, or local behavioral health authorities; and

31 (4) Outline the requirements for the core service agencies’, local addictions  
32 authorities’, or local behavioral health authorities’ governance structure.

33 (c) To assure the continuing provision of appropriate services, the [Director]

1 **DEPUTY SECRETARY** shall:

2 (1) Annually review and may approve the core service agencies', local  
3 addictions authorities', or local behavioral health authorities' program plan;

4 (2) In conjunction with the appropriate authorities, establish and maintain  
5 a funding mechanism for the core service agencies, local addictions authorities, or local  
6 behavioral health authorities which may include the allocation of funds for inpatient  
7 services;

8 (3) Develop a mechanism whereby any unexpended funds remaining at the  
9 end of the year shall remain with the core service agencies, local addictions authorities, or  
10 local behavioral health authorities or the community providers;

11 (4) Establish procedures to facilitate intraagency and interagency linkages  
12 at State and local levels with the core service agencies, local addictions authorities, or local  
13 behavioral health authorities; and

14 (5) Establish procedures within the Behavioral Health Administration for  
15 a process regarding program, policy, or contract disputes that gives all community mental  
16 health and substance-related disorder programs regulated by the Administration the right  
17 to:

18 (i) Access the mediation process established by the Administration;  
19 and

20 (ii) If dissatisfied with the outcome of the mediation by the  
21 Administration, request a hearing with the Office of Administrative Hearings in accordance  
22 with Title 10, Subtitle 2 of the State Government Article.

23 (d) If a core service agency, local addictions authority, or local behavioral health  
24 authority violates any provision of this subtitle, the [Director] **DEPUTY SECRETARY** may  
25 deny approval of the core service agency, local addictions authority, or local behavioral  
26 health authority and, after written notification of denial of approval, cease funding or  
27 request the return of unspent funds by the core service agency, local addictions authority,  
28 or local behavioral health authority.

29 (e) If a county elects to terminate its core service agency, local addictions  
30 authority, or local behavioral health authority, the county may do so upon 90 days' written  
31 notice to the [Director] **DEPUTY SECRETARY**.

32 (f) The [Director] **DEPUTY SECRETARY** may not require a core service agency,  
33 local addictions authority, or local behavioral health authority to provide services the  
34 Department does not provide funding for.

35 **Article – Public Safety**

1 1-401.

2 (a) There is a Sexual Offender Advisory Board.

3 (b) The Board consists of the following members:

4 (7) the [Director of the Behavioral Health Administration] **DEPUTY**  
5 **SECRETARY FOR BEHAVIORAL HEALTH** of the Maryland Department of Health, or the  
6 [Director's] **DEPUTY SECRETARY'S** designee;

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2018.