

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 445 (Delegate Kipke)
Health and Government Operations

Health - Certified Recovery Residences - Urine Testing

This bill requires a recovery residence credentialing entity to establish minimum standards that require (1) residents and employees of a certified recovery residence to submit to a urine test, of a type and at a frequency determined by the credentialing entity, and (2) the certified recovery residence to maintain a record of any urine testing supplies purchased by the certified recovery residence, which will be subject to inspection by the credentialing entity.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures, as discussed below. Revenues are not affected.

Local Effect: Potential significant increase in expenditures, as discussed below. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Under § 7.5-101 of the Health-General Article, “recovery residence” means a service that (1) provides alcohol-free and illicit-drug-free housing to individuals with substance-related disorders or addictive disorders or co-occurring mental disorders and substance-related disorders or addictive disorders and (2) does not include clinical treatment services.

A behavioral health program must be licensed by the Secretary of Health before program services may be offered in Maryland. However, the Secretary may exempt specified entities from licensure requirements, including recovery residences.

Chapters 710 and 711 of 2016 required the Maryland Department of Health (MDH, at that time the Department of Health and Mental Hygiene) to approve a credentialing entity to develop and administer a certification process for recovery residences. The credentialing entity was required to submit a list of the recovery residences that have a certificate of compliance to MDH by October 1, 2017. MDH was required to publish a list of each credentialing entity and the credentialing entity's contact information on its website by November 1, 2017. The published list must include only the owner of the recovery residence and the owner's contact information. A person may not advertise, represent, or imply to the public that a recovery residence is a certified recovery residence unless the recovery residence has a certificate of compliance. Violation is subject to a civil penalty of up to \$1,000 for each offense, assessed by MDH. MDH must consider specified factors when determining the amount of the civil penalty to assess.

Pursuant to Chapters 710 and 711, the credentialing entity must (1) establish certification requirements; (2) establish processes to administer the application, certification, and recertification process; (3) establish processes to monitor and inspect recovery residences; (4) conduct an on-site inspection of a recovery residence before issuing a certificate of compliance and at least once during each certification renewal period; and (5) issue a certificate of compliance on approval of the application process and the inspection.

A certificate of compliance is valid for one year from the date of issuance. The credentialing entity may revoke the certificate of compliance if the credentialing entity finds that the recovery residence is not in compliance with requirements.

Chapter 580 of 2017 further requires MDH to publish, on its website, a list of each recovery residence operating *in each county* in the State; the list must indicate whether the owner of the recovery residence has a valid certificate of compliance.

MDH has designated the Behavioral Health Administration (BHA) as the credentialing entity responsible for certifying and monitoring recovery residences. The list of certified recovery residences in each county is available on BHA's [website](#).

State Expenditures: BHA advises that there are 191 certified recovery residences and 1,788 recovery residence beds. According to BHA, a urine toxicology test costs \$171. BHA advises that general fund expenditures could increase by \$1.7 million annually to cover the cost of toxicology tests under the bill. This estimate does not reflect any additional costs to perform urine tests on employees of recovery residences, as required

under the bill. BHA further advises that it must hire two full-time employees to monitor and inspect recovery residences in accordance with the bill's requirements.

The Department of Legislative Services (DLS) notes that the bill requires the credentialing entity (BHA) to determine the type and frequency of any required urine testing. Further, it is unclear which entity is responsible for the cost of any urine testing under the bill. To the extent BHA pays for any required testing, either directly or through increased reimbursement to recovery residences or grant funds to local health departments (LHDs), general fund expenditures increase, potentially significantly, beginning in fiscal 2019; however, DLS advises that this cost cannot be reliably estimated at this time. Additionally, BHA already conducts annual inspections of recovery residences as part of the credentialing process and also investigates complaints about conditions. Therefore, DLS advises that any additional inspection responsibilities under the bill can likely be handled with existing resources.

Local Expenditures: BHA advises that LHDs contract with recovery residences to provide recovery housing with State funds. Should the bill require recovery residences to pay for required toxicology tests, BHA advises that recovery residences may increase costs for services. Thus, expenditures for LHDs may also increase significantly.

Small Business Effect: Recovery residences must comply with any requirements under the bill, as determined by BHA, which may include paying for required toxicology tests.

Additional Information

Prior Introductions: HB 1010 of 2017 received a hearing in the House Health and Government Operations Committee and was later withdrawn.

Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2018
mag/jc

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