

SENATE BILL 522

J1

0lr0672

By: **Senators McCray, Ellis, Ferguson, and Hayes**

Introduced and read first time: January 30, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Behavioral Health Programs – Licensing and Fees**

3 FOR the purpose of providing for the term of a license issued to a behavioral health
4 program; providing that a certain license expires at the end of the term except under
5 certain circumstances; requiring the Behavioral Health Administration to collect
6 certain fees; requiring that certain fees be transferred to a certain account; requiring
7 that certain regulations include a process for a behavioral health program to apply
8 for a license renewal or modification and a certain schedule of fees; establishing the
9 Behavioral Health Program Grant Program; requiring the Administration to
10 administer the Program; providing for the purpose of the Program; requiring the
11 Administration to distribute money from a certain account to local health
12 departments in a certain manner to carry out a certain purpose; requiring a local
13 health department that receives certain funding to distribute the funds by awarding
14 grants to certain entities for a certain purpose; requiring the Maryland Department
15 of Health to adopt certain regulations; requiring that the Maryland Substance Abuse
16 Fund include a certain account consisting of certain payments and money; requiring
17 the Administration to distribute the money from the account in accordance with a
18 certain provision of this Act; requiring that disbursements from the account
19 supplement and not substitute for certain other funds; making conforming changes;
20 providing for the application of this Act; providing for a delayed effective date; and
21 generally relating to the licensing of and fees for behavioral health programs.

22 BY repealing and reenacting, with amendments,

23 Article – Health – General

24 Section 7.5–401, 7.5–402, and 8–6A–01

25 Annotated Code of Maryland

26 (2019 Replacement Volume)

27 BY adding to

28 Article – Health – General

29 Section 7.5–405

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2019 Replacement Volume)

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

5 **Article – Health – General**

6 7.5–401.

7 (a) **(1)** Except as otherwise provided in this section, a behavioral health
8 program shall be licensed by the Secretary before program services may be provided in this
9 State.

10 **(2) THE TERM OF A LICENSE ISSUED TO A BEHAVIORAL HEALTH**
11 **PROGRAM UNDER THIS SECTION MAY NOT EXCEED 3 YEARS.**

12 **(3) A LICENSE EXPIRES AT THE END OF THE TERM OF THE LICENSE,**
13 **UNLESS THE LICENSE IS RENEWED IN ACCORDANCE WITH REGULATIONS ADOPTED**
14 **UNDER § 7.5–402 OF THIS SUBTITLE.**

15 (b) The Secretary may exempt the following persons from the licensure
16 requirements of this section:

17 (1) A health professional, in either solo or group practice, who is licensed
18 under the Health Occupations Article and who is providing mental health or
19 substance-related disorder services according to the requirements of the appropriate
20 professional board;

21 (2) Alcoholics Anonymous, Narcotics Anonymous, recovery residences,
22 peer support services, family support services, or other similar organizations, if the
23 organization holds meetings or provides support services but does not provide any type of
24 treatment;

25 (3) An employees' assistance program of a business entity;

26 (4) Outpatient behavioral health treatment and rehabilitation services
27 provided in a regulated space in a hospital, as defined in § 19–301 of this article, if the
28 services are accredited by an approved accreditation organization under its behavioral
29 health standards; or

30 (5) A private therapeutic group home as defined in § 10–920 of this article.

31 **(C) (1) THE ADMINISTRATION SHALL COLLECT REASONABLE FEES FOR**
32 **THE ISSUANCE, MODIFICATION, AND RENEWAL OF BEHAVIORAL HEALTH PROGRAM**
33 **LICENSES UNDER THIS SECTION.**

1 **(2) ANY FEE COLLECTED BY THE ADMINISTRATION UNDER**
2 **PARAGRAPH (1) OF THIS SECTION SHALL BE TRANSFERRED TO THE ACCOUNT**
3 **ESTABLISHED UNDER § 8-6A-01(E) OF THIS ARTICLE.**

4 7.5-402.

5 (a) Regulations adopted under this subtitle shall include:

6 (1) The requirements for licensure of a behavioral health program;

7 (2) The process for a behavioral health program to apply for a license;

8 **(3) THE PROCESS FOR A BEHAVIORAL HEALTH PROGRAM TO APPLY**
9 **FOR LICENSE RENEWAL OR MODIFICATION;**

10 **(4) A SCHEDULE OF FEES TO BE CHARGED UNDER § 7.5-401(C)(1) OF**
11 **THIS SUBTITLE FOR THE ISSUANCE, MODIFICATION, AND RENEWAL OF A LICENSE IN**
12 **WHICH THE FEE:**

13 **(I) IS AT LEAST \$1,000 FOR AN INITIAL LICENSE;**

14 **(II) IS AT LEAST \$750 FOR A LICENSE RENEWAL;**

15 **(III) IS AT LEAST \$250 FOR A MODIFICATION TO A LICENSE; AND**

16 **(IV) VARIES DEPENDING ON THE NUMBER OF INDIVIDUALS**
17 **SERVED BY THE BEHAVIORAL HEALTH PROGRAM, WITH BEHAVIORAL HEALTH**
18 **PROGRAMS THAT SERVE MORE INDIVIDUALS PAYING A HIGHER FEE;**

19 **[(3)] (5)** A description of the behavioral health programs that are
20 required to be licensed;

21 **[(4)] (6)** Any requirements for the governance of a behavioral health
22 program, including:

23 (i) A provision prohibiting a conflict of interest between the
24 interests of the provider and those of the individual receiving services;

25 (ii) A provision authorizing a behavioral health program licensed as
26 an outpatient mental health center to satisfy any regulatory requirement that the medical
27 director be onsite through the use of telehealth by the director; and

28 (iii) A provision authorizing a psychiatric nurse practitioner to serve
29 as a medical director of an outpatient mental health center accredited in accordance with

1 COMAR 10.63.03.05, including through telehealth;

2 ~~[(5)] (7)~~ Provisions for inspections of a behavioral health program,
3 including inspection and copying of the records of a behavioral health program in
4 accordance with State and federal law; and

5 ~~[(6)] (8)~~ Provisions for denials, sanctions, suspensions, and revocations of
6 licenses, including imposition of civil monetary penalties, and notice and an opportunity to
7 be heard.

8 (b) (1) The Secretary may require a behavioral health program to be granted
9 accreditation by an accreditation organization approved by the Secretary under Title 19,
10 Subtitle 23 of this article as a condition of licensure under regulations adopted under this
11 subtitle.

12 (2) By becoming licensed in accordance with paragraph (1) of this
13 subsection, a program agrees to comply with all applicable standards of the accreditation
14 organization.

15 ~~[(c) Regulations adopted under this subtitle may include provisions setting
16 reasonable fees for applying for a license and for the issuance and renewal of licenses.]~~

17 **7.5-405.**

18 **(A) IN THIS SECTION, "PROGRAM" MEANS THE BEHAVIORAL HEALTH
19 PROGRAM GRANT PROGRAM.**

20 **(B) THERE IS A BEHAVIORAL HEALTH PROGRAM GRANT PROGRAM.**

21 **(C) THE ADMINISTRATION SHALL ADMINISTER THE PROGRAM.**

22 **(D) THE PURPOSE OF THE PROGRAM IS TO AWARD GRANTS TO ENHANCE
23 BEHAVIORAL HEALTH PROGRAMS.**

24 **(E) TO CARRY OUT THE PURPOSE OF THE PROGRAM, THE ADMINISTRATION
25 SHALL DISTRIBUTE MONEY FROM THE ACCOUNT ESTABLISHED UNDER § 8-6A-01(E)
26 OF THIS ARTICLE:**

27 **(1) TO LOCAL HEALTH DEPARTMENTS; AND**

28 **(2) IN AN AMOUNT PROPORTIONAL TO THE NUMBER OF BEHAVIORAL
29 HEALTH PROGRAMS LOCATED IN EACH COUNTY.**

30 **(F) A LOCAL HEALTH DEPARTMENT THAT RECEIVES FUNDING UNDER
31 SUBSECTION (E) OF THIS SECTION SHALL DISTRIBUTE THE FUNDS BY AWARDING**

1 GRANTS TO BEHAVIORAL HEALTH PROGRAMS THAT ARE LOCATED IN THE LOCAL
2 HEALTH DEPARTMENT'S COUNTY OR TO NONPROFIT ORGANIZATIONS SEEKING TO
3 ENHANCE A BEHAVIORAL HEALTH PROGRAM THAT IS LOCATED IN THE LOCAL
4 HEALTH DEPARTMENT'S COUNTY FOR THE PURPOSE OF:

5 (1) ENHANCING SAFETY AT A BEHAVIORAL HEALTH PROGRAM;

6 (2) MAKING IMPROVEMENTS TO A BEHAVIORAL HEALTH PROGRAM;

7 OR

8 (3) MAKING IMPROVEMENTS TO THE COMMUNITY IN WHICH A
9 BEHAVIORAL HEALTH PROGRAM IS LOCATED.

10 (G) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
11 SECTION.

12 8-6A-01.

13 (a) In this section, "Fund" means the Maryland Substance Abuse Fund.

14 (b) (1) There is a Maryland Substance Abuse Fund.

15 (2) The Fund is a special nonlapsing fund that is not subject to § 7-302 of
16 the State Finance and Procurement Article.

17 (3) The Fund consists of the fee required under § 6-229 of the Criminal
18 Procedure Article, money appropriated in the State budget to the Fund, **THE ACCOUNT**
19 **ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION**, all earnings from investment
20 of money in the Fund, and other money accepted for the benefit of the Fund from a
21 governmental or private source.

22 (4) The State Treasurer shall hold the Fund separately.

23 (5) The State Comptroller shall account for the Fund.

24 (6) The Fund shall be invested and reinvested in the same manner as other
25 State funds.

26 (7) The Comptroller shall pay out money from the Fund as directed by the
27 Administration or as approved in the State budget.

28 (8) The Fund is subject to audit by the Office of Legislative Audits under §
29 2-1220 of the State Government Article.

30 (9) No part of the Fund may revert or be credited to:

1 (i) The General Fund of the State; or

2 (ii) Any other special fund of the State.

3 (c) **[The] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE**
4 Fund shall be used by the Administration for the following purposes in order of priority:

5 (1) Planning expenses and related costs incurred by local drug and alcohol
6 councils established under Subtitle 10 of this title;

7 (2) Planning expenses and related costs incurred by any State unit
8 designated to coordinate planning by local drug and alcohol councils and review grant
9 requests from local governments; and

10 (3) Substance abuse evaluation and treatment services, including services
11 provided through a drug treatment court.

12 (d) (1) Administrative expenditures under this section may be made only in
13 accordance with the State budget.

14 (2) The Administration shall administer the Fund in accordance with this
15 section and all other applicable law.

16 (3) Disbursements from the Fund shall supplement and may not substitute
17 for any other funds appropriated in the State budget for substance abuse evaluation and
18 treatment services.

19 **(E) (1) THE FUND SHALL INCLUDE A SEPARATE ACCOUNT CONSISTING**
20 **OF:**

21 **(I) PAYMENTS RECEIVED BY THE ADMINISTRATION FROM**
22 **FEES COLLECTED FOR LICENSURE, LICENSE RENEWAL, AND LICENSE**
23 **MODIFICATION UNDER § 7.5-401 OF THIS ARTICLE; AND**

24 **(II) ANY OTHER MONEY ACCEPTED FOR THE BENEFIT OF THE**
25 **ACCOUNT.**

26 **(2) THE ADMINISTRATION SHALL DISTRIBUTE THE MONEY FROM THE**
27 **ACCOUNT IN ACCORDANCE WITH § 7.5-405 OF THIS ARTICLE.**

28 **(3) DISBURSEMENTS FROM THE ACCOUNT SHALL SUPPLEMENT AND**
29 **MAY NOT SUBSTITUTE FOR ANY OTHER FUNDS OTHERWISE AVAILABLE TO**
30 **BEHAVIORAL HEALTH PROGRAMS OR LOCAL HEALTH DEPARTMENTS.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to

1 apply only prospectively and may not be applied or interpreted to have any effect on or
2 application to the issuance or renewal of a behavioral health program license that occurred
3 before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 January 1, 2021.