

**Department of Legislative Services**  
Maryland General Assembly  
2020 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 520  
Finance

(Senators McCray and Ellis)

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**Behavioral Health Programs - Opioid Treatment Services - Limitation on Licenses**

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This bill limits the number of licenses in each county that the Behavioral Health Administration (BHA) may approve for behavioral health programs that provide opioid treatment services to no more than five licenses for every 100,000 individuals who reside in that county. BHA may approve additional licenses if authorized by legislation passed by the General Assembly.

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**Fiscal Summary**

**State Effect:** BHA can comply with the bill's requirements using existing budgeted resources. Revenues are not affected.

**Local Effect:** No direct fiscal impact, but a cap on providers could have an operational impact in certain jurisdictions that need more programs and cannot establish them unless and until authorizing legislation is passed by the General Assembly.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law:** Maryland regulations (COMAR 10.63.03.19) define an opioid treatment service as one that:

- complies with the requirements of specified federal regulations;
- is under the direction of a medical director who is a physician and has specified qualifications;

- uses pharmacological interventions, including dispensing of full and partial opiate agonist treatment medications as part of treatment, support, and recovery services to an individual with an opioid addiction;
- provides clinical services to each patient at a frequency based on the patient’s clinical stability level, but with the overall program having an average patient-to-counselor ratio of 50:1 or lower;
- arranges for any opioid maintenance medication dispensed to a patient to be transported to specified service sites;
- arranges transportation of opioid maintenance medication from specified service sites or confirms the disposal of such medication when a patient leaves residential levels of care;
- conducts random drug testing for specified substances on each patient at least monthly;
- develops a taper schedule at least 21 days along, with a daily dosage reduction of less than 5% of the original total dose, regardless of the patient’s ability to pay;
- executes a nonvoluntary taper for, or transfer of, a patient only in certain circumstances;
- requires that a patient show evidence of the availability of locked storage before the patient may take home any dose of medication; and
- provides clinical services addressing any substance use disorders to each patient.

**Background:** According to the federal Substance Abuse and Mental Health Services Administration’s treatment locator, approximately 94 opioid treatment programs provide medication-assisted treatment in Maryland and at least one Maryland jurisdiction, Baltimore City, currently has more programs than would be permitted under the bill.

**Additional Comments:** Montgomery County advises that the size of a jurisdiction’s population does not necessarily correlate to the number of treatment providers required to meet the need for opioid treatment services in that jurisdiction.

It is unclear whether the bill is permitted under the Americans with Disabilities Act (ADA). ADA specifies that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to a discrimination by any such entity.” “Disability” means “a physical or mental impairment that substantially limits one or more of the major life activities” of an individual. The term does not include “an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use,” but does include an individual who “is participating in a supervised rehabilitation program and is no longer engaging in such use.”

**Small Business Effect:** To the extent small business opioid treatment service providers cannot open (or remain open) in certain jurisdictions under the bill, revenues decrease for such providers, but may correspondingly increase for other existing providers that serve that jurisdiction.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Substance Abuse and Mental Health Services Administration; Maryland Association of County Health Officers; Baltimore City; Montgomery County; Maryland Association of Counties; Maryland Department of Health; Department of Legislative Services

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