



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 1, 2024

The Honorable Joseline A. Peña-Melnyk
Chair, House Health and Government Operations Committee
Room 241, House Office Building
Annapolis, Maryland 21401

RE: House Bill 1359 - Facilities - Disabilities and Juveniles - Community Relations Plans - Letter of Concern

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of concern for House Bill (HB) 1359 - Facilities - Disabilities and Juveniles - Community Relations Plans.

HB 1359 would require certain entities operated or licensed by the Department, particularly State Residential Centers (SRCs) and Private Group Homes for individuals with intellectual and developmental disabilities, to develop public communication plans and mechanisms for public feedback, on topics including parking, traffic, complaints, construction, and “general activity.” None of these categories of communication are further defined within the text of the bill. The bill would additionally place similar requirements on Juvenile Care Facilities and Juvenile Detention Centers, which are operated by the Department of Juvenile Services.

The Department sees potential for these requirements to be discriminatory against individuals with disabilities. Further, particularly with regard to Private Group Homes, the Department also views potential violations of privacy, autonomy, and legal equality for persons with disabilities living in the community. The Department is concerned that HB 1359 would place burdens upon its providers, and place the State, its facilities, and its providers in a condition of legal conflict through contradiction of existing State and Federal laws.

Under HB 1359, two types of residential entities operated or licensed by the Department would be required to develop communication plans and accept public input. The first of these is the SRC, operated by the MDH Healthcare System, of which Maryland has two – the Holly Center and the Potomac Center/SETT. The two State Residential Centers already engage with their surrounding communities via their Community Advisory Boards (CABs) and other methods.

The second type of entity is the Private Group Home, which is regulated by the Developmental Disabilities Administration (DDA) and licensed by the Office of Health Care Quality within the Department. At present, there are approximately 2,700 Private Group Homes operating in

Maryland, which provide support to approximately 6,710 participants. Many Private Group Home providers engage with their staff on training topics including connecting with neighbors and local police, being a good neighbor, and parking responsibilities in neighborhoods.

Private Group Homes are extremely small in size – a maximum of four residents may reside in such a home, and on average one to two staff are present at any given time. These homes function in a manner that closely resembles the function of any private residence in the State – they are typically multi-bedroom apartments or single-family homes for which the participants receiving services sign residential agreements. Nonprofit Private Group Homes (which are a majority of providers) are classified for zoning and other legal purposes as single-family dwellings. Given their small size, limited operations, and significant similarity to a private dwelling, such community homes would possess essentially no capacity or expertise to develop community relations plans or hire community relations staff.

Outside of practical concerns, the Department also wants to flag potential conflicts between HB 1359 and other state and federal statutory requirements. The Department directly operates Maryland's SRCs through the MDH Healthcare System, meaning that the SRCs must comply with the Maryland Public Information Act (PIA). Further, both SRCs and Private Group Homes are governed by both state and federal statutes regarding personal and medical privacy. Finally, the Department must ensure that our facilities comply with other federal statutes, including the Fair Housing Act (FHA).

With regard to the PIA, the Department may not disclose addresses of community residences and group homes that serve individuals with disabilities. Thus, there are a variety of communications potentially required by HB 1359, such as information about elopements or other concerns about SRC residents, which would not be disclosable by the SRC under the PIA. Such restrictions would not apply to Private Group Home operators, but such operators are still governed by other privacy statutes related to disclosure of identifying information and health information, which could prohibit compliance with certain interpretations of HB 1359. Finally, to survive potential legal challenges to the requirements of HB 1359 under the Federal Housing Act, the State would be required to demonstrate that the legislation serves a legitimate interest and no less discriminatory course of action exists, given that the requirements of the bill are facially discriminatory. The Department is concerned that the present drafting of the proposed statute does not take necessary steps to meet this standard.

It is the current policy of the Department and the historically expressed intent of the General Assembly that individuals with disabilities should have access to conditions of living in their community of choice which are free from undue legal discrimination or differential treatment. Individuals with disabilities have the right to build relationships with their neighbors under the same conditions afforded to every other resident of the State. By requiring formalized communication and public input into the private lives of individuals with developmental disabilities, HB 1359 could negatively affect their right to build relationships with their neighbors under the same conditions afforded to every other individual.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs, at sarah.case-herron@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott", is placed over a faint, light blue outline of the state of Maryland.

Laura Herrera Scott, M.D., M.P.H.
Secretary