

(PRE-FILED)

By: Chairman, Finance Committee (Departmental - Health and Mental Hygiene)

Requested: November 8, 1996

Introduced and read first time: January 8, 1997

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 7, 1997

CHAPTER ____

1 AN ACT concerning

2 **Residential Treatment Centers - Accreditation**

3 FOR the purpose of ~~authorizing the Secretary of Health and Mental Hygiene to use the~~
4 ~~current standards of the Joint Commission on Accreditation of Health Care~~
5 ~~Organizations when conducting inspections of certain residential treatment centers;~~
6 authorizing the Secretary of Health and Mental Hygiene to license a residential
7 treatment center based on the residential treatment center's current applicable
8 accreditation by the Joint Commission on Accreditation of HealthCare
9 Organizations (JCAHO); authorizing the use of current applicable JCAHO
10 standards when conducting inspections of residential treatment centers; making
11 certain technical changes to the law related to the licensure of hospitals and related
12 institutions; defining certain terms; and generally relating to the standards and
13 inspections of certain residential treatment centers by the Secretary of Health and
14 Mental Hygiene.

15 BY repealing and reenacting, with amendments,

16 Article - Health - General

17 Section 19-309~~(b)~~ and 19-319(c)

18 Annotated Code of Maryland

19 (1996 Replacement Volume and 1996 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Health - General

22 Section 19-301, ~~19-307(b)~~, and 19-308

23 Annotated Code of Maryland

24 (1996 Replacement Volume and 1996 Supplement)

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1 (As enacted by Chapter 147 of the Acts of the General Assembly of 1996)

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

4 **Article - Health - General**

5 19-301.

6 (a) In this subtitle the following words have the meanings indicated.

7 (b) "Accredited hospital" means a hospital accredited by the Joint Commission on
8 Accreditation of Hospitals ~~Hospitals~~ HEALTHCARE ORGANIZATIONS.

9 (C) "ACCREDITED RESIDENTIAL TREATMENT CENTER" MEANS A
10 RESIDENTIAL TREATMENT CENTER THAT IS ACCREDITED BY THE JOINT
11 COMMISSION ON ACCREDITATION OF ~~HEALTH CARE~~ HEALTHCARE
12 ORGANIZATIONS.

13 [(c)] (D) "Apartment unit" means any space, in a residential building, that is
14 enclosed and self-contained and has a sanitary environment, if the space includes:

15 (1) 2 or more rooms;

16 (2) A direct exit to a thoroughfare or to a common element leading to a
17 thoroughfare;

18 (3) Facilities for living, sleeping, and eating; and

19 (4) At least the following facilities for cooking:

20 (i) Storage space for food and utensils;

21 (ii) A refrigerator;

22 (iii) A cook top; and

23 (iv) Adequate electrical capacity and outlets for small appliances.

24 [(d)] (E) (1) "Domiciliary care" means services that are provided to aged or
25 disabled individuals in a protective, institutional or home-type environment.

26 (2) "Domiciliary care" includes:

27 (i) Shelter;

28 (ii) Housekeeping services;

29 (iii) Board;

30 (iv) Facilities and resources for daily living; and

31 (v) Personal surveillance or direction in the activities of daily living.

32 [(e)] (F) "Hospital" means an institution that:

3

1 (1) Has a group of at least 5 physicians who are organized as a medical staff
2 for the institution;

3 (2) Maintains facilities to provide, under the supervision of the medical
4 staff, diagnostic and treatment services for 2 or more unrelated individuals; and

5 (3) Admits or retains the individuals for overnight care.

6 [(f)] (G) "License" means a license issued by the Secretary:

7 (1) To operate a hospital in this State; ~~or~~

8 (2) To operate a related institution in this State; OR

9 (3) TO OPERATE A RESIDENTIAL TREATMENT CENTER IN THIS STATE.

10 [(g)] (H) "Nonaccredited hospital" means a hospital not accredited by the Joint
11 Commission on Accreditation of ~~Hospitals~~ HEALTHCARE ORGANIZATIONS.

12 (I) "NONACCREDITED RESIDENTIAL TREATMENT CENTER" MEANS A
13 RESIDENTIAL TREATMENT CENTER THAT IS NOT ACCREDITED BY THE JOINT
14 COMMISSION ON HEALTHCARE ORGANIZATIONS.

15 [(h)] ~~(J)~~ (J) "Nursing care" means service for a patient that is:

16 (1) Ordered by a physician; and

17 (2) Provided or supervised by a registered or practical nurse who is licensed
18 to practice in this State.

19 [(i)] ~~(K)~~ (K) "Nursing facility" means a related institution that provides nursing
20 care for 2 or more unrelated individuals.

21 [(j)] ~~(L)~~ (L) "Person" includes this State or a county or municipal corporation.

22 [(k)] ~~(M)~~ (M) (1) "Personal care" means a service that an individual normally
23 would perform personally, but for which the individual needs help from another because
24 of advanced age, infirmity, or physical or mental limitation.

25 (2) "Personal care" includes:

26 (i) Help in walking;

27 (ii) Help in getting in and out of bed;

28 (iii) Help in bathing;

29 (iv) Help in dressing;

30 (v) Help in feeding; and

31 (vi) General supervision and help in daily living.

32 [(l)] ~~(N)~~ (N) (1) "Related institution" means an organized institution,
33 environment, or home that:

4

1 (i) Maintains conditions or facilities and equipment to provide
2 domiciliary, personal, or nursing care for 2 or more unrelated individuals who are
3 dependent on the administrator, operator, or proprietor for nursing care or the
4 subsistence of daily living in a safe, sanitary, and healthful environment; and

5 (ii) Admits or retains the individuals for overnight care.

6 (2) "Related institution" does not include a nursing facility or visiting nurse
7 service that is conducted only by or for adherents of a bona fide church or religious
8 organization, in accordance with tenets and practices that include reliance on treatment
9 by spiritual means alone for healing.

10 ~~(N) "RESIDENTIAL TREATMENT CENTER" MEANS A RELATED INSTITUTION~~
11 ~~THAT PROVIDES INPATIENT TREATMENT FOR EMOTIONALLY DISTURBED~~
12 ~~CHILDREN OR ADOLESCENTS WITH OVERNIGHT ACCOMMODATIONS FOR TWO OR~~
13 ~~MORE NONRELATED INDIVIDUALS WHO ARE REFERRED FOR ADMISSION ON THE~~
14 ~~RECOMMENDATION OF A PHYSICIAN.~~

15 (O) "RESIDENTIAL TREATMENT CENTER" MEANS A PSYCHIATRIC
16 INSTITUTION THAT PROVIDES CAMPUS-BASED INTENSIVE AND EXTENSIVE
17 EVALUATION AND TREATMENT OF CHILDREN AND ADOLESCENTS WITH SEVERE
18 AND CHRONIC EMOTIONAL DISTURBANCES WHO REQUIRE A SELF-CONTAINED
19 THERAPEUTIC, EDUCATIONAL, AND RECREATIONAL PROGRAM IN A RESIDENTIAL
20 SETTING.

21 [(m)] ~~(P)~~ "Unrelated individual" means anyone who is not:

22 (1) A child, grandchild, parent, grandparent, sibling, stepparent, stepchild,
23 or spouse of the proprietor; or

24 (2) An in-law of any of these individuals.

25 ~~49-307.~~

26 ~~(b) A related institution shall be classified:~~

27 ~~(1) As a care home if the related institution provides care to individuals~~
28 ~~who, because of advanced age or physical or mental disability, require domiciliary care or~~
29 ~~personal care in a protective environment; [or]~~

30 ~~(2) As a nursing home if the related institution:~~

31 ~~(i) Provides nursing care for chronically ill or convalescent patients; or~~

32 ~~(ii) Offers to provide 24-hour a day nursing care of patients in a~~
33 ~~home-type facility such as:~~

34 1. ~~A convalescent home;~~

35 2. ~~A nursing unit of a home for the aged;~~

36 3. ~~A psychiatric nursing home;~~

37 4. ~~A nursing facility for the handicapped;~~

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1 ~~5. A home for alcoholics; or~~

2 ~~6. A halfway house; OR~~

3 ~~(3) AS A RESIDENTIAL TREATMENT CENTER IF THE RELATED~~
4 ~~INSTITUTION PROVIDES INPATIENT TREATMENT FOR EMOTIONALLY DISTURBED~~
5 ~~CHILDREN OR ADOLESCENTS.~~

6 19-308.

7 (a) The Secretary shall adopt reasonable rules and regulations that set standards
8 of services for related institutions and nonaccredited hospitals in the following areas:

9 (1) The care of patients;

10 (2) The medical supervision of patients;

11 (3) The physical environment;

12 (4) Disease control;

13 (5) Sanitation;

14 (6) Safety; and

15 (7) Dietary matters.

16 (b) (1) To assure compliance with the standards adopted under this subtitle, the
17 Secretary shall have an inspection made:

18 (i) Of each related institution ~~and~~ each nonaccredited hospital, AND
19 EACH NONACCREDITED RESIDENTIAL TREATMENT CENTER for which a license is
20 sought; and

21 (ii) Periodically of each related institution ~~and~~ each nonaccredited
22 hospital, AND EACH NONACCREDITED RESIDENTIAL TREATMENT CENTER for which
23 a license has been issued.

24 (2) An accredited hospital AND AN ACCREDITED RESIDENTIAL
25 TREATMENT CENTER shall be subject to inspections under this subtitle by the
26 Department for:

27 (i) A complaint investigation in accordance with § 19-309 of this part;
28 OR

29 (ii) ~~Reviewing compliance with licensure requirements for risk~~
30 ~~management, utilization review, and physician credentialing under § 19-319 of this~~
31 ~~subtitle; or~~

32 (iii) Reviewing compliance with a written progress report or other
33 documentation of corrective action in response to a focused survey submitted by the
34 hospital OR RESIDENTIAL TREATMENT CENTER to the Joint Commission on
35 Accreditation of ~~Health Care~~ HEALTHCARE Organizations in response to a Type I
36 finding that the hospital OR RESIDENTIAL TREATMENT CENTER is only in partial

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1 compliance with the patient care standards established by the Joint Commission on
 2 Accreditation of ~~Health Care~~ HEALTHCARE Organizations.

3 (3) IN ADDITION TO OTHER PROVISIONS OF THIS SUBSECTION, AN
 4 ACCREDITED HOSPITAL SHALL BE SUBJECT TO INSPECTIONS UNDER THIS SUBTITLE
 5 BY THE DEPARTMENT FOR REVIEWING COMPLIANCE WITH LICENSURE
 6 REQUIREMENTS FOR RISK MANAGEMENT, UTILIZATION REVIEW, AND PHYSICIAN
 7 CREDENTIALING UNDER § 19-319 OF THIS SUBTITLE.

8 ~~(3)~~ (4) When conducting an inspection of an accredited hospital OR
 9 ACCREDITED RESIDENTIAL TREATMENT CENTER, the Department shall use the
 10 current APPLICABLE standards of the Joint Commission on Accreditation of ~~Health Care~~
 11 HEALTHCARE Organizations.

12 ~~(4) A hospital that begins initial operation on or after July 1, 1982 shall be~~
 13 ~~inspected for compliance with the safety and sanitation components of the regulations~~
 14 ~~promulgated by the Department. If the hospital has not applied for accreditation by the~~
 15 ~~Joint Commission on Accreditation of Health Care Organizations within 1 year after~~
 16 ~~beginning operation or has had its application for accreditation rejected, the Department~~
 17 ~~shall inspect the hospital for compliance with the standards adopted under this subtitle.~~

18 (5) At least 2 inspections a year of each related institution shall be
 19 unannounced.

20 (6) The part of a building that contains part of a hospital, RESIDENTIAL
 21 TREATMENT CENTER, or related institution and any outbuilding are considered part of
 22 the facility and are subject to inspection to determine occupancy status for licensing
 23 purposes.

24 (7) Subject to § 2-1312 of the State Government Article, during each
 25 regular session of the General Assembly, the Department shall submit to the General
 26 Assembly a report on the inspections.

27 (8) (i) An employee of the Department may not inform a hospital,
 28 RESIDENTIAL TREATMENT CENTER, or related institution of any proposed inspection
 29 activity, unless the chief of the employee's division directs the employee to do so.

30 (ii) An employee who violates any provision of this paragraph is guilty
 31 of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
 32 imprisonment not exceeding 1 year or both.

33 (c) (1) An accredited hospital OR ACCREDITED RESIDENTIAL TREATMENT
 34 CENTER shall submit the survey findings of the Joint Commission on Accreditation of
 35 ~~Health Care~~ HEALTHCARE Organizations within 30 days of receipt by the hospital OR
 36 ~~ACCREDITED~~ THE RESIDENTIAL TREATMENT CENTER to the Department.

37 (2) Except as provided in paragraph (5) of this subsection, an accredited
 38 hospital's OR ACCREDITED RESIDENTIAL TREATMENT CENTER'S official accreditation
 39 report and any summary of the report, written progress reports, or plans of correction
 40 which are submitted to the Secretary are confidential and are not discoverable or
 41 admissible as evidence in any civil action.

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1 (3) The Secretary shall refer any request for public inspection of a survey
 2 report made by the Joint Commission on Accreditation of ~~Health Care~~ HEALTHCARE
 3 Organizations for an accredited hospital OR ACCREDITED RESIDENTIAL TREATMENT
 4 CENTER directly to the hospital OR RESIDENTIAL TREATMENT CENTER.

5 (4) Upon the written request of any person, within 15 working days, the
 6 accredited hospital OR ACCREDITED RESIDENTIAL TREATMENT CENTER shall make
 7 available for public inspection the most recent accreditation letter and any Type I
 8 recommendations if the Joint Commission on Accreditation of ~~Health Care~~
 9 HEALTHCARE Organizations has made a final decision on any appeal by the hospital OR
 10 RESIDENTIAL TREATMENT CENTER of the Type I recommendations.

11 (5) If information is released in accordance with paragraph (4) of this
 12 subsection, that information is no longer confidential, but is not discoverable or
 13 admissible in any civil action.

14 (6) [A hospital] AN accreditation report, including any summary of the
 15 report and any information contained in the report, disclosed by a hospital OR
 16 RESIDENTIAL TREATMENT CENTER, the Joint Commission on the Accreditation of
 17 ~~Health Care~~ HEALTHCARE Organizations, or the Department is not admissible or
 18 discoverable in any civil action.

19 (7) If an accredited hospital OR ACCREDITED RESIDENTIAL TREATMENT
 20 CENTER willfully fails to comply with the provisions of this subsection, the Secretary may
 21 impose a penalty not to exceed \$1,000 a day for each day the violation continues.

22 19-309.

23 (a) Notwithstanding any other provisions of this subtitle, each hospital OR
 24 RESIDENTIAL TREATMENT CENTER shall be open to inspections by the Department to
 25 investigate and resolve any complaint concerning patient care, safety, medical and nursing
 26 supervision, physical environment, sanitation or dietary matters.

27 (b) (1) To resolve expeditiously a complaint that alleges the existence of any
 28 nonlife-threatening deficiency, the Department may refer the complaint directly to the
 29 hospital OR RESIDENTIAL TREATMENT CENTER.

30 (2) If appropriate, issues relating to the practice of medicine or the
 31 licensure or conduct of a health professional shall be referred to the hospital OR THE
 32 RESIDENTIAL TREATMENT CENTER and may be referred to the appropriate licensure
 33 board for resolution.

34 (3) If the Department determines that the hospital OR RESIDENTIAL
 35 TREATMENT CENTER has not satisfactorily addressed the referred complaint or where
 36 the complaint alleges the existence of a life-threatening deficiency, the Department shall
 37 conduct an independent investigation. When conducting its independent investigation,
 38 the Department shall use:

39 (i) For an accredited hospital OR ACCREDITED RESIDENTIAL
 40 TREATMENT CENTER, the CURRENT APPLICABLE standards of review of the Joint
 41 Commission on Accreditation of [Hospitals] ~~HEALTH CARE~~ HEALTHCARE
 42 ORGANIZATIONS;

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1 (ii) For a nonaccredited hospital OR NONACCREDITED
2 RESIDENTIAL TREATMENT CENTER, the standards adopted by the Secretary under this
3 subtitle; ~~and~~

4 (iii) For an accredited or nonaccredited hospital that is a facility as
5 defined under § 19-319.2 of this subtitle, the requirements of §§ 10-701 through 10-709
6 of this article; AND

7 (IV) FOR AN ACCREDITED OR NONACCREDITED RESIDENTIAL
8 TREATMENT CENTER, THE REQUIREMENTS OF §§ 10-701 THROUGH 10-709 OF THIS
9 ARTICLE.

10 19-319.

11 (c) (1) The applicant shall have a certificate of need, as required under Subtitle
12 1 of this title, for the hospital, RESIDENTIAL TREATMENT CENTER, or related institution
13 to be operated.

14 (2) The hospital, RESIDENTIAL TREATMENT CENTER, or related
15 institution to be operated shall:

16 (i) Be an accredited hospital OR ACCREDITED RESIDENTIAL
17 TREATMENT CENTER; or

18 (ii) Meet the requirements that the Secretary adopts under this
19 subtitle and Subtitle 12 of this title.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1997.