
By: ~~Delegate Hubbard~~ Delegates Hubbard, Hurson, Hammen, Benson,
Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater, Haynes, Kach,
Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks,
Pendergrass, Rosenberg, Rudolph, Smigiel, and Weldon

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House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Developmental Disability Administration and Department of Health and**
3 **Mental Hygiene - Inspections and Investigations - Reports**

4 FOR the purpose of requiring the Developmental Disability Administration ~~and the~~
5 ~~Department of Health and Mental Hygiene~~ to make certain inspections and
6 investigations in response to incident reports made, deaths that occur at, and
7 complaints that concern certain facilities; requiring the Administration and
8 Department to make certain reports on certain inspections and investigations;
9 requiring the Administration and Department, on request, to fully disclose
10 certain reports with certain exceptions to any person make certain deficiencies,
11 findings, or conclusions of a complaint investigation available to certain
12 individuals; and generally relating to inspections and investigations of certain
13 facilities regarding deaths, complaints, and incident reports by the
14 Administration ~~and Department.~~

15 BY repealing and reenacting, with amendments,
16 Article - Health - General
17 Section 7-909 ~~and 19-309~~
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2002 Supplement)

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

1 **Article - Health - General**

2 7-909.

3 (a) In this section, the word "licensee" means a person who is licensed by the
4 Administration under this title to provide services.

5 (b) The Administration or its agent shall inspect each site or office operated by
6 a licensee [at]:

7 (1) AT least once annually [and at any other time that the
8 Administration considers necessary]; AND

9 ~~(2) UPON A REPORT OF DEATH PROVIDED IN ACCORDANCE WITH § 7-207~~
10 ~~OF THIS TITLE;~~

11 ~~(3) AT ANY TIME THE ADMINISTRATION RECEIVES AN INCIDENT~~
12 ~~REPORT; AND~~

13 ~~(4) (2) AT ANY OTHER TIME THE ADMINISTRATION CONSIDERS~~
14 ~~NECESSARY, INCLUDING DURING:~~

15 (I) AN INVESTIGATION INTO A DEATH REPORTED IN ACCORDANCE
16 WITH § 7-207 OF THIS TITLE; AND

17 (II) AN INVESTIGATION INTO AN INCIDENT REPORT RECEIVED BY
18 THE ADMINISTRATION OR ITS DESIGNEE.

19 (c) ~~(4)~~ The Administration shall keep a report of each inspection.

20 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE~~
21 ~~ADMINISTRATION, ON REQUEST, SHALL MAKE COMPLETE COPIES OF EACH~~
22 ~~INSPECTION REPORT AVAILABLE TO ANY PERSON.~~

23 ~~(3) AN INSPECTION REPORT MADE AVAILABLE TO THE PUBLIC UNDER~~
24 ~~PARAGRAPH (2) OF THIS SUBSECTION MAY NOT CONTAIN:~~

25 ~~(I) THE NAME OF A PATIENT;~~

26 ~~(II) THE IDENTITY OF A COMPLAINANT;~~

27 ~~(III) THE ADDRESS OF ANY INDIVIDUAL OTHER THAN AN OWNER OF~~
28 ~~AN INSPECTED PROGRAM OR FACILITY; OR~~

29 ~~(IV) ANY INFORMATION THAT COULD BE DEFAMATORY AS TO ANY~~
30 ~~IDENTIFIABLE PERSON.~~

31 (D) THE ADMINISTRATION, ON REQUEST, SHALL MAKE ANY DEFICIENCIES,
32 FINDINGS, OR CONCLUSIONS OF A COMPLAINT INVESTIGATION AVAILABLE TO:

33 (1) THE INDIVIDUAL WITH DEVELOPMENTAL DISABILITY, IF:

1 (I) A PERSON IS NOT AUTHORIZED TO ACT ON BEHALF OF THE
 2 INDIVIDUAL WITH DEVELOPMENTAL DISABILITY; AND

3 (II) THE ADMINISTRATION DETERMINES THAT DISCLOSURE
 4 WOULD NOT BE DETRIMENTAL TO THE INDIVIDUAL WITH DEVELOPMENTAL
 5 DISABILITY;

6 (2) A PARENT OR GUARDIAN OF THE INDIVIDUAL WITH
 7 DEVELOPMENTAL DISABILITY WHO IS:

8 (I) A MINOR; OR

9 (II) UNLESS THE INDIVIDUAL WITH DEVELOPMENTAL DISABILITY
 10 ASKS THAT DISCLOSURE TO THE PARENT OR GUARDIAN NOT BE ALLOWED, AN
 11 ADULT;

12 (3) A LAWYER OR OTHER INDIVIDUAL WHO IS AUTHORIZED:

13 (I) BY THE INDIVIDUAL WITH DEVELOPMENTAL DISABILITY; OR

14 (II) BY ANOTHER INDIVIDUAL TO WHOM, ON BEHALF OF THE
 15 DEVELOPMENTALLY DISABLED INDIVIDUAL, DISCLOSURE OF THE RECORD IS
 16 AUTHORIZED; OR

17 (4) THE CASE MANAGER FOR AN INDIVIDUAL WITH DEVELOPMENTAL
 18 DISABILITY OR SERVICE COORDINATOR WHO PROVIDES OR COORDINATES SERVICES
 19 IN ACCORDANCE WITH THE PLAN OF HABILITATION FOR THE INDIVIDUAL WITH
 20 DEVELOPMENTAL DISABILITY.

21 ~~(4)~~ (E) The Administration shall bring any deficiencies to the attention of:

22 (1) The executive officer of the licensee; or

23 (2) In the case of an intermediate care facility-mental retardation, the
 24 State Planning Council and the State-designated protection and advocacy agency.

25 ~~19-309.~~

26 ~~(a) Notwithstanding any other provisions of this subtitle, each hospital or~~
 27 ~~residential treatment center shall be open to inspections by the Department to~~
 28 ~~investigate and resolve any complaint concerning patient care, safety, medical and~~
 29 ~~nursing supervision, physical environment, sanitation [or], dietary matters, OR~~
 30 ~~DEATH.~~

31 ~~(b) (1) To resolve expeditiously a complaint that alleges the existence of any~~
 32 ~~nonlife-threatening deficiency, the Department may refer the complaint directly to~~
 33 ~~the hospital or residential treatment center.~~

34 ~~(2) If appropriate, issues relating to the practice of medicine or the~~
 35 ~~licensure or conduct of a health professional shall be referred to the hospital or the~~

1 residential treatment center and may be referred to the appropriate licensure board
2 for resolution.

3 (3) If the Department determines that the hospital or residential
4 treatment center has not satisfactorily addressed the referred complaint or where the
5 complaint alleges the existence of a life-threatening deficiency, the Department shall
6 conduct an independent investigation. When conducting its independent
7 investigation, the Department shall use:

8 (i) For an accredited hospital or accredited residential treatment
9 center, the current applicable standards of review of the Joint Commission on
10 Accreditation of Healthcare Organizations;

11 (ii) For a nonaccredited hospital or nonaccredited residential
12 treatment center, the standards adopted by the Secretary under this subtitle;

13 (iii) For an accredited or nonaccredited hospital that is a facility as
14 defined under § 19-319.2 of this subtitle, the requirements of §§ 10-701 through
15 10-709 of this article; and

16 (iv) For an accredited or nonaccredited residential treatment center,
17 the requirements of §§ 10-701 through 10-709 of this article.

18 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
19 DEPARTMENT, ON REQUEST, SHALL MAKE ANY INFORMATION DISCOVERED DURING
20 AN INVESTIGATION CONDUCTED UNDER THIS SECTION AVAILABLE TO ANY PERSON.

21 (D) THE DEPARTMENT MAY NOT DISCLOSE UNDER SUBSECTION (C) OF THIS
22 SECTION ANY INFORMATION CONCERNING:

23 (1) THE NAME OF A PATIENT;

24 (2) THE IDENTITY OF A COMPLAINANT;

25 (3) THE ADDRESS OF ANY INDIVIDUAL OTHER THAN AN OWNER OF AN
26 INVESTIGATED PROGRAM OR FACILITY; OR

27 (4) ANY INFORMATION THAT COULD BE DEFAMATORY AS TO ANY
28 IDENTIFIABLE PERSON.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2003.

