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By: **Delegates Costa, Hubbard, Benson, Boutin, Kullen, Murray, Oaks, Pendergrass, ~~and Rudolph~~ Rudolph, Bromwell, Donoghue, Elliott, Frank, Mandel, McDonough, Morhaim, Nathan-Pulliam, V. Turner, and Weldon**

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Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 24, 2005

CHAPTER_____

AN ACT concerning

Developmental Disabilities Administration - Prioritization System for Investigations

FOR the purpose of requiring the Developmental Disabilities Administration, in conjunction with the Office of Health Care Quality, to adopt regulations establishing a certain prioritization system for responding to and investigating certain incidents; requiring the Administration to seek input from certain individuals in developing the regulations; and generally relating to a prioritization system for investigations of licensees of the Developmental Disabilities Administration.

BY repealing and reenacting, with amendments,
Article - Health - General
Section 7-909
Annotated Code of Maryland
(2000 Replacement Volume and 2004 Supplement)

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

Article - Health - General

7-909.

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

(b) The Administration or its agent shall inspect each site or office operated by a licensee at least once annually and at any other time that the Administration considers necessary.

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

(d) The Administration shall bring any deficiencies to the attention of:

(1) The executive officer of the licensee; or

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

(E) (1) THE ADMINISTRATION, IN CONJUNCTION WITH THE OFFICE OF HEALTH CARE QUALITY, SHALL ADOPT REGULATIONS THAT ESTABLISH A SYSTEM OF PRIORITIZATION TO RESPOND TO AND INVESTIGATE SERIOUS REPORTABLE INCIDENTS, AS DEFINED BY THE ADMINISTRATION, IN THE AREAS OF ABUSE, NEGLECT, SERIOUS INJURY, AND MEDICATION ERRORS THAT THREATEN THE HEALTH, SAFETY, AND WELL-BEING OF INDIVIDUALS RECEIVING SERVICES FUNDED BY THE ADMINISTRATION IN STATE-OPERATED AND COMMUNITY PROGRAMS LICENSED BY THE ADMINISTRATION.

(2) THE ADMINISTRATION SHALL SEEK INPUT FROM INDIVIDUALS WITH DISABILITIES AND THEIR FAMILIES, LICENSEES, AND ADVOCACY ORGANIZATIONS IN DEVELOPING THE REGULATIONS, PRIOR TO PUBLISHING THE REGULATIONS IN THE MARYLAND REGISTER FOR PUBLIC COMMENT.

(3) THE REGULATIONS SHALL DEFINE AND ADDRESS:

(I) THE PROCEDURES AND TIMELINES THAT PROVIDERS MUST FOLLOW WHEN REPORTING SERIOUS REPORTABLE INCIDENTS AND DEATHS TO THE ADMINISTRATION AND THE OFFICE OF HEALTH CARE QUALITY;

~~(I)~~ (II) ~~THE SYSTEM OF PRIORITIZATION FOR INVESTIGATION OF SERIOUS REPORTABLE INCIDENTS AND DEATHS;~~ THE DEPARTMENT'S PROTOCOL TO DETERMINE THE NECESSITY TO INVESTIGATE A SERIOUS REPORTABLE INCIDENT THAT TAKES INTO ACCOUNT:

1. THE SEVERITY OF THE INCIDENT;

2. THE QUALITY OF THE LICENSEE'S INTERNAL INVESTIGATION; AND

3. THE NUMBER AND FREQUENCY OF SERIOUS REPORTABLE INCIDENTS REPORTED BY THE LICENSEE TO THE DEPARTMENT;

~~(II)~~ (III) THE SPECIFIC ROLES AND RESPONSIBILITIES OF EACH GOVERNMENTAL UNIT INVOLVED IN ~~INVESTIGATING LICENSEES~~ ANY FOLLOW-UP INVESTIGATIONS THAT MAY OCCUR DUE TO A LICENSEE'S REPORT OF A SERIOUS REPORTABLE INCIDENT OR DEATH;

~~(III)~~ (IV) METHODS OF INVESTIGATIONS, INCLUDING ON-SITE INVESTIGATIONS;

~~(IV)~~ (V) TIME LINES FOR RESPONSE TO SERIOUS REPORTABLE INCIDENTS AND DEATHS AND INVESTIGATION OF SERIOUS REPORTABLE INCIDENTS AND DEATHS;

~~(V)~~ (VI) TIME LINES FOR ISSUING SPECIFIED REPORTS, INCLUDING CORRECTIVE ACTION PLANS, TO THE ADMINISTRATION, LICENSEE, MORTALITY REVIEW COMMITTEE, MEDICAID FRAUD UNIT, INDIVIDUALS RECEIVING SERVICES FROM THE LICENSEE INVOLVED IN THE INCIDENT AND THEIR GUARDIANS OR FAMILY MEMBERS, AND OTHERS; AND

~~(VI) FOLLOW-UP MONITORING REQUIREMENTS AND TIME LINES FOR THE OFFICE OF HEALTH CARE QUALITY AND THE ADMINISTRATION TO ENSURE THAT CORRECTIVE ACTION HAS BEEN IMPLEMENTED BY THE LICENSEE; AND~~

~~(VII) FOLLOW-UP MONITORING METHODS IN THE CASE OF A STATE OPERATED OR COMMUNITY LICENSEE THAT HAS NO DOCUMENTED SERIOUS REPORTABLE INCIDENTS OF ABUSE OR NEGLECT WITHIN A CERTAIN PERIOD OF TIME.~~

~~(4) THE FOLLOW-UP MONITORING MAY INCLUDE AN ON-SITE REVIEW TO DETERMINE THAT THERE ARE NO SERIOUS REPORTABLE INCIDENTS OF ABUSE AND NEGLECT, MODIFIED SURVEY SCHEDULES FOR LICENSEES DEMONSTRATING CERTAIN QUALITY STANDARDS OF COMPLIANCE, AND OTHER MEASURES TO ENSURE THE HEALTH, SAFETY, AND WELL-BEING OF INDIVIDUALS.~~

(VII) FOLLOW-UP PROTOCOLS FOR THE OFFICE OF HEALTH CARE QUALITY AND THE ADMINISTRATION TO ENSURE THAT CORRECTIVE ACTION HAS BEEN IMPLEMENTED BY THE LICENSEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005.