
By: Delegates Costa and Hubbard, Hubbard, Benson, Boteler, Boutin, Donoghue, Elliott, Frank, Hammen, Hurson, Kach, Kullen, Mandel, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, V. Turner, and Weldon

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CHAPTER _____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Licenses and Eligibility for**
3 **State Funding - Minimum Standards**

4 FOR the purpose of requiring that the Secretary of Health and Mental Hygiene
5 ~~establish~~ adopt regulations requiring that a governing body of certain licensees
6 of the Department of Health and Mental Hygiene be composed of a certain
7 percentage of State residents or individuals residing within a certain distance of
8 certain offices located in the State except under certain circumstances;
9 prohibiting certain individuals from serving on the governing body of certain
10 licensees except under certain circumstances; requiring applicants for certain
11 licenses to submit certain documents to demonstrate an applicant's ability to
12 provide for the services required by law; ~~prohibiting the Department from~~
13 ~~issuing~~ authorizing the Department to deny certain licenses to an applicant
14 under certain circumstances; requiring that the Secretary adopt regulations
15 requiring certain organizations to submit certain documents to the Department
16 in order to be eligible for certain types of funding; providing that in order for
17 certain organizations to be eligible for certain types of Department funding, the
18 governing body of the organization must meet certain qualifications; requiring
19 the Department to conduct an on-site investigation of certain organizations
20 before making a determination that the organization is eligible for certain types
21 of funding; and generally relating to minimum standards for licensing and
22 funding from the Department of Health and Mental Hygiene.

23 BY repealing and reenacting, with amendments,
24 Article - Health - General

1 Section 7-904, 7-907, and 10-901(a)
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2004 Supplement)

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

6 **Article - Health - General**

7 7-904.

8 (a) The Secretary shall adopt rules and regulations for the licensing of
9 services for an individual with developmental disability or a recipient of individual
10 support services.

11 (b) The rules and regulations shall ensure that services to an individual with
12 developmental disability or a recipient of individual support services are provided in
13 accordance with the policy stated in Subtitle 1 of this title.

14 (C) (1) THE RULES AND REGULATIONS SHALL REQUIRE THAT:

15 (I) AT LEAST 75% OF THE GOVERNING BODY OF A LICENSEE SHALL
16 BE RESIDENTS OF THE STATE OR RESIDE WITHIN A 100-MILE RADIUS OF THE
17 ADMINISTRATIVE OFFICES OF THE LICENSEE, WHICH SHALL BE LOCATED IN THE
18 STATE; AND

19 (II) NO EMPLOYEE OF A LICENSEE OR IMMEDIATE FAMILY
20 MEMBER OF AN EMPLOYEE OF A LICENSEE ~~SHALL~~ MAY SERVE AS A VOTING MEMBER
21 OF THE GOVERNING BODY OF A LICENSEE UNLESS:

22 1. THE EMPLOYEE RECEIVES SERVICES FROM THE
23 LICENSEE; OR

24 2. THE ADMINISTRATION EXPLICITLY APPROVES THE
25 COMPOSITION OF THE GOVERNING BODY THROUGH AN INNOVATIVE PROGRAM
26 SERVICE PLAN IN ACCORDANCE WITH COMAR 10.22.02.09.F.

27 (2) THE REQUIREMENTS OF PARAGRAPH (1)(I) OF THIS SUBSECTION MAY
28 BE WAIVED IF A COMMUNITY-BASED ADVISORY BOARD OR COMMITTEE IS
29 ESTABLISHED BY THE LICENSEE AND APPROVED BY THE DEPARTMENT.

30 (D) THE RULES AND REGULATIONS SHALL ALSO REQUIRE THAT AN
31 APPLICANT FOR A LICENSE UNDER THIS SECTION SHALL DEMONSTRATE TO THE
32 DEPARTMENT THE APPLICANT'S CAPABILITY TO PROVIDE FOR OR ARRANGE FOR THE
33 PROVISION OF ALL APPLICABLE SERVICES REQUIRED BY THIS CHAPTER BY
34 SUBMITTING, AT A MINIMUM, THE FOLLOWING DOCUMENTS TO THE DEPARTMENT:

35 (1) A BUSINESS PLAN THAT CLEARLY DEMONSTRATES THE ABILITY OF
36 THE APPLICANT TO PROVIDE SERVICES IN ACCORDANCE WITH MARYLAND
37 REGULATIONS AND FUNDING REQUIREMENTS;

1 (2) A SUMMARY OF THE APPLICANT'S DEMONSTRATED EXPERIENCE IN
2 THE FIELD OF DEVELOPMENTAL DISABILITIES, IN ACCORDANCE WITH STANDARDS
3 DEVELOPED BY THE DEPARTMENT;

4 (3) PRIOR LICENSING REPORTS ISSUED WITHIN THE PREVIOUS 10 YEARS
5 FROM ANY IN-STATE OR OUT-OF-STATE ENTITIES ASSOCIATED WITH THE
6 APPLICANT, INCLUDING DEFICIENCY REPORTS AND COMPLIANCE RECORDS ON
7 WHICH THE STATE MAY MAKE REASONED DECISIONS ABOUT THE QUALIFICATIONS
8 OF THE APPLICANT; AND

9 (4) A WRITTEN QUALITY ASSURANCE PLAN, APPROVED BY THE
10 DEVELOPMENTAL DISABILITIES ADMINISTRATION, TO ADDRESS HOW THE
11 APPLICANT WILL ENSURE THE HEALTH AND SAFETY OF THE INDIVIDUALS SERVED
12 BY THE APPLICANT AND THE QUALITY OF SERVICES PROVIDED TO INDIVIDUALS BY
13 THE APPLICANT.

14 7-907.

15 (A) The Administration shall issue a license to any applicant who meets the
16 requirements of this subtitle and the rules and regulations adopted under § 7-904 of
17 this subtitle, EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SECTION.

18 (B) THE ADMINISTRATION MAY ~~NOT ISSUE~~ DENY A LICENSE:

19 (1) TO ANY ENTITY THAT HAS HAD A LICENSE REVOKED BY THE
20 DEPARTMENT WITHIN THE PREVIOUS 10 YEARS; OR

21 (2) TO ANY ENTITY THAT HAS A CORPORATE OFFICER WHO HAS SERVED
22 AS A CORPORATE OFFICER FOR AN ENTITY THAT HAS HAD A LICENSE REVOKED BY
23 THE DEPARTMENT WITHIN THE PREVIOUS 10 YEARS.

24 10-901.

25 (a) (1) The Secretary shall adopt rules and regulations that set standards
26 for:

27 (i) Eligibility for State funding of local mental health programs
28 under Part I of this subtitle;

29 (ii) Qualifications of staff and quality of professional services of
30 eligible programs;

31 (iii) Eligibility for receiving services under eligible programs; and

32 (iv) Accreditation of a facility as defined in § 10-101(e) of this title.

33 (2) The Secretary may consider accreditation by the Joint Commission
34 on Accreditation of Healthcare Organizations (JCAHO) or the Commission on
35 Accreditation of Rehabilitation Facilities (CARF), whichever is appropriate, as
36 meeting the rules and regulations adopted under this subtitle.

1 (3) The rules and regulations shall ensure:

2 (i) That an individual is not discriminated against based on an
3 inability to pay for services; and

4 (ii) That an individual is not discriminated against or denied
5 community-based mental health services based on the individual's lack of a fixed
6 address or because the individual is homeless.

7 (4) THE RULES AND REGULATIONS SHALL REQUIRE THAT, PRIOR TO
8 APPROVAL FOR RECEIPT OF STATE FUNDING UNDER PART I OF THIS SUBTITLE, A
9 NONPROFIT ORGANIZATION OR PRIVATE COMMUNITY-BASED ORGANIZATION SHALL
10 SUBMIT THE FOLLOWING TO THE DEPARTMENT:

11 (I) A WRITTEN LIST OF THE NAMES OF THE MEMBERS OF THE
12 BOARD OF DIRECTORS AND CORPORATE OFFICERS OF THE ORGANIZATION;

13 (II) A BUSINESS PLAN THAT CLEARLY DEMONSTRATES THE
14 ABILITY OF THE ORGANIZATION TO PROVIDE SERVICES IN ACCORDANCE WITH
15 MARYLAND REGULATIONS AND FUNDING REQUIREMENTS;

16 (III) A SUMMARY OF THE ORGANIZATION'S DEMONSTRATED
17 EXPERIENCE IN THE FIELD OF MENTAL HEALTH, IN ACCORDANCE WITH STANDARDS
18 DEVELOPED BY THE DEPARTMENT;

19 (IV) PRIOR LICENSING REPORTS ISSUED WITHIN THE PREVIOUS 10
20 YEARS FROM ANY IN-STATE OR OUT-OF-STATE ENTITIES ASSOCIATED WITH THE
21 ORGANIZATION, INCLUDING DEFICIENCY REPORTS AND COMPLIANCE RECORDS ON
22 WHICH THE STATE MAY MAKE REASONED DECISIONS ABOUT THE QUALIFICATIONS
23 OF THE ORGANIZATION; AND

24 (V) A WRITTEN QUALITY ASSURANCE PLAN, APPROVED BY THE
25 MENTAL HYGIENE ADMINISTRATION, TO ADDRESS HOW THE ORGANIZATION WILL
26 ENSURE THE HEALTH AND SAFETY OF THE INDIVIDUALS SERVED BY THE
27 ORGANIZATION AND THE QUALITY OF SERVICES PROVIDED TO INDIVIDUALS BY THE
28 ORGANIZATION.

29 (5) IN ORDER FOR A NONPROFIT ORGANIZATION OR PRIVATE
30 COMMUNITY-BASED ORGANIZATION TO BE ELIGIBLE TO RECEIVE FUNDS UNDER
31 PART I OF THIS SUBTITLE:

32 (I) AN IMMEDIATE FAMILY MEMBER OF AN EMPLOYEE OF AN
33 ORGANIZATION MAY NOT SERVE AS A VOTING MEMBER OF THE GOVERNING BODY OF
34 THE ORGANIZATION; AND

35 (II) A MEMBER OF THE GOVERNING BODY OF THE ORGANIZATION
36 MAY NOT HAVE SERVED AS A MEMBER OF A GOVERNING BODY OF AN ORGANIZATION
37 THAT HAS HAD A LICENSE REVOKED BY THE DEPARTMENT WITHIN THE PREVIOUS 10
38 YEARS.

1 (6) BEFORE DETERMINING THAT A NONPROFIT ORGANIZATION OR
2 PRIVATE COMMUNITY-BASED ORGANIZATION IS ELIGIBLE TO RECEIVE FUNDS
3 UNDER PART I OF THIS SUBTITLE, THE DEPARTMENT SHALL PERFORM AN ON-SITE
4 INVESTIGATION OF THE ORGANIZATION.

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