
By: **Senators Teitelbaum, Giannetti, Kelley, Lawlah, and Pinsky**

Introduced and read first time: February 11, 2005

Assigned to: Rules

A BILL ENTITLED

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

21 BY repealing and reenacting, with amendments,
22 Article - Health - General
23 Section 7-904, 7-907, and 10-901(a)
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2004 Supplement)

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

1 **Article - Health - General**

2 7-904.

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

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

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

10 (I) AT LEAST 75% OF THE GOVERNING BODY OF A LICENSEE SHALL
11 BE RESIDENTS OF THE STATE; AND

12 (II) NO EMPLOYEE OF A LICENSEE OR IMMEDIATE FAMILY
13 MEMBER OF AN EMPLOYEE OF A LICENSEE SHALL SERVE AS A VOTING MEMBER OF
14 THE GOVERNING BODY OF A LICENSEE.

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

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

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

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

29 (3) PRIOR LICENSING REPORTS ISSUED WITHIN THE PREVIOUS 10 YEARS
30 FROM ANY IN-STATE OR OUT-OF-STATE ENTITIES ASSOCIATED WITH THE
31 APPLICANT, INCLUDING DEFICIENCY REPORTS AND COMPLIANCE RECORDS ON
32 WHICH THE STATE MAY MAKE REASONED DECISIONS ABOUT THE QUALIFICATIONS
33 OF THE APPLICANT; AND

34 (4) A WRITTEN QUALITY ASSURANCE PLAN, APPROVED BY THE
35 DEVELOPMENTAL DISABILITIES ADMINISTRATION, TO ADDRESS HOW THE
36 APPLICANT WILL ENSURE THE HEALTH AND SAFETY OF THE INDIVIDUALS SERVED
37 BY THE APPLICANT AND THE QUALITY OF SERVICES PROVIDED TO INDIVIDUALS BY
38 THE APPLICANT.

1 7-907.

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

5 (B) THE ADMINISTRATION MAY NOT ISSUE A LICENSE:

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

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

11 10-901.

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

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

16 (ii) Qualifications of staff and quality of professional services of
17 eligible programs;

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

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

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

24 (3) The rules and regulations shall ensure:

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

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

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

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

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

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

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

12 (V) A WRITTEN QUALITY ASSURANCE PLAN, APPROVED BY THE
13 MENTAL HYGIENE ADMINISTRATION, TO ADDRESS HOW THE ORGANIZATION WILL
14 ENSURE THE HEALTH AND SAFETY OF THE INDIVIDUALS SERVED BY THE
15 ORGANIZATION AND THE QUALITY OF SERVICES PROVIDED TO INDIVIDUALS BY THE
16 ORGANIZATION.

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

20 (I) AN IMMEDIATE FAMILY MEMBER OF AN EMPLOYEE OF AN
21 ORGANIZATION MAY NOT SERVE AS A VOTING MEMBER OF THE GOVERNING BODY OF
22 THE ORGANIZATION; AND

23 (II) A MEMBER OF THE GOVERNING BODY OF THE ORGANIZATION
24 MAY NOT HAVE SERVED AS A MEMBER OF A GOVERNING BODY OF AN ORGANIZATION
25 THAT HAS HAD A LICENSE REVOKED BY THE DEPARTMENT WITHIN THE PREVIOUS 10
26 YEARS.

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

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