

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1510

(Chair, Health and Government Operations
Committee)(By Request - Departmental - Health and
Mental Hygiene)

Health and Government Operations

Finance

Behavioral Health Administration - Establishment and Duties

This departmental bill merges the Department of Health and Mental Hygiene's (DHMH) Alcohol and Drug Abuse Administration (ADAA) and Mental Hygiene Administration (MHA) into the Behavioral Health Administration (BHA), which is newly established in statute. The bill also modifies/replaces existing certification and approval provisions for alcohol abuse and drug abuse treatment programs and mental health programs to establish licensing provisions for substance use disorder programs and mental health programs. The Secretary of Health and Mental Hygiene may require the programs to be granted accreditation by an approved accreditation organization as a condition of licensure. A stakeholder workgroup must be convened by the Secretary to make recommendations on issues related to behavioral health, with a report of findings and recommendations due by December 1, 2014. The bill makes a series of technical and conforming changes.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: The bill is not expected to affect State finances. ADAA and MHA are currently combined into BHA in the State budget, and the licensing provisions and the authorization to require accreditation of substance use disorder and mental health programs, while allowing for operational efficiency, are not expected to have a fiscal impact. The workgroup can be convened and the report submitted with existing budgeted resources.

Local Effect: Local government expenditures increase due to costs associated with accreditation of local government programs (to the extent accreditation is required by DHMH). Revenues are not materially affected.

Small Business Effect: DHMH has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill establishes BHA and repeals provisions that previously established ADAA and MHA. “Behavioral health” includes substance use disorders, addictive disorders, and mental disorders. “Behavioral health care” includes prevention, screening, early intervention, treatment, recovery, support, wraparound, and rehabilitation services – for individuals with substance use disorders, addictive disorders, mental disorders, or a combination of those disorders.

BHA is headed by a director appointed by, and subject to the authority of, the Secretary of Health and Mental Hygiene. The director has various powers and duties, including the power to appoint assistant directors and staff provided for in the State budget and, unless expressly provided otherwise by law, the power to delegate functions to any subordinate unit or individual in BHA.

The bill modifies provisions governing the certification of an “alcohol abuse and drug abuse treatment program” to instead govern the licensing of a “substance use disorder program.” The modifications include the repeal of a provision requiring DHMH to, within 60 days of receipt of certain applications for certification, provide notice to specified government entities/officials. “Substance use disorder program,” which includes a State or local government program, is defined as a set of services that are community based and consist of (1) any combination of treatment, care, or rehabilitation for individuals with a substance use disorder or (2) education for individuals known to be at risk of developing a substance use disorder. The Secretary of Health and Mental Hygiene must adopt specified regulations for establishing, operating, and licensing a substance use disorder program and may require a substance use disorder program to be granted accreditation by an approved accreditation organization as a condition of licensure. The bill repeals (as unnecessary due to the change to a fee-for-service system and use of an administrative services organization (ASO) to fund any uninsured individuals) a prohibition on discrimination against an individual based on an inability to pay for alcohol and drug abuse (or substance use disorder) services provided by DHMH either directly or by contract. The bill also aligns annual evaluations of all publicly

funded and licensed substance use disorder treatment programs with federal outcome measures or other subsequently adopted federal standards.

The bill replaces provisions governing eligibility of specified mental health programs for State funding with provisions that both govern eligibility for State and federal funding and require licensing of a “mental health program.” “Mental health program” is defined as a set of services that consists of community-based treatment, care, and/or rehabilitation services for individuals with a mental disorder. The Secretary of Health and Mental Hygiene must adopt specified regulations for (1) establishing, operating, and licensing a mental health program and (2) eligibility for State and federal funding for mental health programs. The Secretary may require a mental health program to be granted accreditation by an approved accreditation organization as a condition of licensure.

The Secretary of Health and Mental Hygiene must convene a stakeholder workgroup that includes representatives of DHMH, providers, consumers, and advocacy organizations to make recommendations on issues related to behavioral health, including statutory and regulatory changes to (1) fully integrate mental health and substance use disorder treatment and recovery support and (2) promote health services. DHMH must report the findings and recommendations of the workgroup to the Governor and the General Assembly by December 1, 2014.

Current Law:

ADAA and MHA

ADAA and MHA are established in DHMH with specified powers and duties under State law governing alcohol and drug abuse and mental health, respectively.

Alcohol Abuse and Drug Abuse Treatment Programs

With certain exceptions, an alcohol abuse and drug abuse treatment program must be certified by DHMH before providing services in the State, and the department must adopt regulations for establishing, operating, and certifying alcohol abuse and drug abuse treatment programs including standards relating to environmental and safety requirements and programmatic operations. “Alcohol abuse and drug abuse treatment program,” which includes a State or local program, is defined as any individual or organization that provides treatment, care, or rehabilitation for individuals who show the effects of drug abuse or alcohol abuse and that represents or advertises itself as an alcohol abuse or drug abuse treatment program.

Mental Health Programs

The Secretary of Health and Mental Hygiene must adopt specified rules and regulations that set standards for (1) eligibility for State funding of local mental health programs; (2) qualifications of staff and quality of professional services of eligible programs; (3) eligibility for receiving services under eligible programs; and (4) accreditation of a facility providing treatment or other services for individuals who have mental disorders. The Secretary may consider accreditation by specified accreditation organizations as meeting the adopted rules and regulations. In accordance with the State budget and the adopted rules and regulations, the Secretary may make grants from or agreements for the use of State and federal funds to help public agencies or nonprofit organizations establish and operate local mental health programs.

Background:

Behavioral Health Integration

DHMH has been examining the issue of integrating substance use disorder and mental health care in recent years to address fragmentation in the delivery and government financing of those services. Merging ADAA and MHA is a part of that integration effort, and the two administrations are already combined, for budgetary purposes, into BHA, following a fiscal 2014 budget amendment. In addition, funding for substance use disorder and mental health services will be managed through one ASO. A request for proposals for an ASO was issued in February 2014. DHMH indicates that integrating administrative requirements for and oversight of mental health and substance use disorder programs “will promote the integration of clinical services to the individual and, thus, allow providers to better deliver the services to meet an individual’s treatment goals.”

Program Accreditation Advantages and Challenges

A November 2012 report of DHMH’s Behavioral Health Integrated Regulations Workgroup lists advantages and challenges of requiring accreditation of substance use disorder and mental health programs. Advantages include strengthening and enhancing the behavioral health treatment system, providers being subject to only a single set of standards, and supporting implementation of best practices. Among the challenges of accreditation are the financial and other resources a provider devotes to undergoing the accreditation process and becoming accredited. The report indicates that costs of becoming accredited depend on the number of provider locations, number of patients served, and complexity of services provided.

Local Fiscal Effect: Local government expenditures are expected to increase for local government programs to become accredited to the extent DHMH makes accreditation a

licensing requirement pursuant to the authority in the bill. DHMH indicates that at least 12 local health departments provide services that will need to be accredited. Based on information provided by DHMH, it appears that the initial fee for accreditation for a small provider may be more than \$5,000, and Montgomery County expects that it will incur an initial fee of \$60,000 along with a renewal fee of \$60,000 every three years for county programs. Howard County also expects to need consulting services, in addition to the cost of the accreditation fees, to prepare for accreditation. Likewise, Talbot County advises that costs associated with accreditation could be significant, especially for a small jurisdiction.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Howard, Montgomery, and Talbot counties; Department of Legislative Services

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ncs/ljm Revised - House Third Reader - April 7, 2014
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Behavioral Health Administration – Establishment and Duties

BILL NUMBER: HB 1510

PREPARED BY: Department of Health and Mental Hygiene

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

There will be a fiscal impact on private programs that wish to participate as providers of MH or SUD services, or both, and who are not currently accredited by any national accreditation program. The cost of becoming accredited is based on the number of provider locations, number of patients served, and complexity of services provided. Thus, the precise fiscal impact on individual programs cannot be determined. However, it is expected that the cost of attaining and maintaining accreditation will be offset by savings from eliminating the requirement of complying with multiple sets of regulations, and by additional earnings, because accreditation will make the providers more marketable and competitive. It is expected that some but not all programs will agree with this assessment. Approximately 70 existing service providers have voluntarily become accredited, because it increases the quality of their services and because accreditation is typically required by private insurance companies.