

# HOUSE BILL 566

J3, J1

5lr0334

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By: **Delegate Rosenberg**

Introduced and read first time: February 11, 2015

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Administrative Procedure Act~~ – Department of Health and Mental Hygiene –  
3 Licensees Providing Services to Individuals With Developmental Disabilities –  
4 Emergency ~~Exception~~ Action

5 FOR the purpose of authorizing the Department of Health and Mental Hygiene ~~to order,~~  
6 under certain circumstances, to suspend the license of a licensee that provides  
7 services to individuals with developmental disabilities or order the licensee to  
8 remedy immediately a situation requiring emergency action ~~instead of ordering the~~  
9 ~~suspension of the license;~~ and generally relating to ~~the Administrative Procedure Act~~  
10 ~~and~~ emergency actions by the Department of Health and Mental Hygiene concerning  
11 licensees that provide services to individuals with developmental disabilities.

12 BY repealing and reenacting, with amendments,

13 ~~Article – State Government~~  
14 ~~Section 10-226(e)~~  
15 ~~Annotated Code of Maryland~~  
16 ~~(2014 Replacement Volume)~~

17 Article – Health – General  
18 Section 7-910  
19 Annotated Code of Maryland  
20 (2009 Replacement Volume and 2014 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Article - State Government~~~~10-226.~~

~~(e) (1) Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:~~

~~(i) written notice of the facts that warrant suspension or revocation;~~  
and

~~(ii) an opportunity to be heard.~~

~~(2) (1) A unit may order summarily the suspension of a license if the unit:~~

~~[(i)] 1. finds that the public health, safety, or welfare imperatively requires emergency action; and~~

~~[(ii)] 2. promptly gives the licensee:~~

~~[1.] A. written notice of the suspension, the finding, and the reasons that support the finding; and~~

~~[2.] B. an opportunity to be heard.~~

~~(H) INSTEAD OF ORDERING THE SUSPENSION OF THE LICENSE, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAY ORDER A LICENSEE THAT PROVIDES SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES TO REMEDY IMMEDIATELY THE SITUATION THAT REQUIRES THE EMERGENCY ACTION.~~

Article - Health - General7-910.

(a) The Administration shall deny a license to any applicant or suspend or revoke a license if the applicant or licensee fails to comply with the applicable laws, rules, or regulations of this State.

(b) Any applicant or licensee who knowingly and willfully makes a false statement in connection with an application under this subtitle shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$1,000, or imprisonment not exceeding 1 year, or both.

1           (c) The Administration may impose a penalty not exceeding \$500 per day per  
 2 violation for each day a violation occurs on a licensee that fails to comply with the reporting  
 3 requirements established under § 7–306.1(l) of this title.

4           (d) Except as otherwise provided in § 10–226 of the State Government Article  
 5 AND SUBSECTION (E) OF THIS SECTION, before the Administration takes any action  
 6 under this section, the Administration shall give the applicant or licensee notice and an  
 7 opportunity for a hearing.

8           **(E) (1) IF THE DEPARTMENT FINDS THAT THE PUBLIC HEALTH, SAFETY,**  
 9 **OR WELFARE OF INDIVIDUALS WITH DISABILITIES RECEIVING SERVICES FROM A**  
 10 **LICENSEE IMPERATIVELY REQUIRES EMERGENCY ACTION, THE DEPARTMENT MAY**  
 11 **SUSPEND THE LICENSE OR ORDER A LICENSEE TO REMEDY IMMEDIATELY THE**  
 12 **SITUATION REQUIRING THE EMERGENCY ACTION.**

13           **(2) THE ORDER TO REMEDY IMMEDIATELY THE SITUATION SHALL BE**  
 14 **EFFECTIVE IMMEDIATELY AND SHALL REMAIN IN EFFECT UNTIL:**

15                   **(I) THE DEPARTMENT RESCINDS THE ORDER; OR**

16                   **(II) THERE IS A RESOLUTION THROUGH THE ADMINISTRATIVE**  
 17 **HEARING PROCESS.**

18           **(3) IF THE DEPARTMENT ISSUES AN ORDER UNDER PARAGRAPH (1)**  
 19 **OF THIS SUBSECTION, THE DEPARTMENT PROMPTLY SHALL GIVE THE LICENSEE:**

20                   **(I) WRITTEN NOTICE OF THE ORDER, THE FINDING, AND THE**  
 21 **REASONS THAT SUPPORT THE FINDING; AND**

22                   **(II) AN OPPORTUNITY TO BE HEARD.**

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 24 October 1, 2015.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.