

Department of Legislative Services

Maryland General Assembly

2019 Session

FISCAL AND POLICY NOTE

First Reader

House Bill 1171

(Delegate Howard, *et al.*)

Health and Government Operations

Alcohol and Drug Abuse Program Facilities - ASAM Criteria Assessments

This bill requires a certified alcohol and drug abuse program facility to provide a patient with a copy of the patient’s treatment records on the patient’s request. Within 72 hours of completing an “ASAM criteria” assessment, the members of a patient’s ASAM criteria assessment team must meet with the patient to explain or clarify specified information, including discharge options. A facility must send the appropriate application records to a treatment provider of the patient’s next level of care within 72 hours of the assessment if the results show that the patient should receive residential treatment or treatment in a halfway house.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: “ASAM criteria” means the nationally recognized comprehensive guidelines established by the American Society of Addiction Medicine for the assessment of the placement, continued stay, transfer, and discharge of patients with addiction and co-occurring conditions.

The patient's treatment provider at the facility must provide direct patient referrals to any other treatment providers specified in the results of the assessment and discharge plan. Further, a patient may request that an individual of the patient's choosing be designated as the patient's personal representative to advocate and speak for the patient to create a discharge plan based on the assessment results.

The patient and the patient's treatment provider must sign the discharge plan before the patient may be discharged.

Current Law/Background: In Maryland, residential substance-related disorder services are generally provided at the following levels of care:

- residential low-intensity level 3.1 programs provide clinically managed, low-intensity, substance-related disorder treatment in large and small halfway houses;
- residential medium-intensity level 3.3 programs provide clinically managed, medium-intensity, substance-related disorder treatment services; and
- residential high-intensity level 3.5 programs provide clinically managed, high-intensity, substance-related disorder treatment services in a highly structured environment, in combination with moderate- to high-intensity treatment and ancillary services.

According to the American Society of Addiction Medicine, ASAM criteria (formerly "ASAM patient placement criteria") are the most widely used and comprehensive set of guidelines for placement, continued stay, and transfer/discharge of patients with addiction and co-occurring conditions. ASAM criteria use six dimensions for service planning and treatment:

- *Dimension 1:* acute intoxication and/or withdrawal potential;
- *Dimension 2:* biomedical conditions and complications;
- *Dimension 3:* emotional, behavioral, or cognitive conditions and complications;
- *Dimension 4:* readiness to change;
- *Dimension 5:* relapse, continued use, or continued problem potential; and
- *Dimension 6:* recovery and living environment.

Additionally, there are five broad levels of care and subsets within these levels to represent gradations of intensity of services and certain benchmarks:

- *Level 0.5*: early intervention;
- *Level 1*: outpatient services;
- *Level 2*: intensive outpatient/partial hospitalization services;
- *Level 2.1*: intensive outpatient services;
- *Level 2.5*: partial hospitalization services;
- *Level 3*: residential inpatient services;
- *Level 3.1*: clinically managed, low-intensity residential services;
- *Level 3.3*: clinically managed, population-specific, high-intensity residential services;
- *Level 3.5*: clinically managed, high-intensity residential services;
- *Level 3.7*: medically monitored, intensive inpatient services; and
- *Level 4*: medically managed, intensive inpatient services.

Under the federal Health Insurance Portability and Accountability Act (better known as HIPAA), a patient who is being treated for substance use disorder has a right to access the patient's own medical records; however, certain information is excluded from this right of access, including but not limited to psychotherapy notes.

Additionally, federal regulations (42 CFR § 2.1 *et seq.*) impose restrictions upon the disclosure and use of substance use disorder patient records, specifically prohibiting the disclosure of any information that would identify a person as having or having had a substance use disorder unless that person provides written consent on an approved consent form, with limited exceptions.

Additional Comments: This analysis assumes that the bill's provisions related to the disclosure of the patient's treatment records to the patient on request relate to those treatment records that are authorized to be disclosed under federal law. This analysis also assumes that the bill's provision requiring disclosure of appropriate application records to the patient's next level of care are limited by the patient's consent to that disclosure.

Further, the Maryland Department of Health notes that the bill's provision related to the patient's assessment including the treatment providers specified for the patient's next level of care is ambiguous as the ASAM assessment would only specify *a level of care* not treatment providers. However, it is likely that the provider who is explaining the ASAM assessment to the patient will be aware of appropriate treatment provider recommendations based on the ASAM assessment's suggestions for the next level of care.

Additional Information

Prior Introductions: HB 1579 of 2018 received a hearing in the House Health and Government Operations Committee but was withdrawn. Its cross file, SB 922, received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of Health; American Society of Addiction Medicine; Substance Abuse and Mental Health Services Administration; Department of Legislative Services

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