A BILL ENTITLED

AN ACT concerning

Suicide Treatment Improvements Act

FOR the purpose of requiring the Maryland Department of Health to provide training for certain staff who assist callers on a certain hotline to ensure that the staff are able to provide certain counseling; requiring certain facilities to ensure that suicidal patients and patients who have attempted suicide are treated in a certain manner; requiring certain facilities to ensure that certain staff act in a certain manner and receive certain training; requiring certain facilities to ensure access for patients to certain counselors and employ a certain number of individuals who are trained in providing counseling to certain patients and are available to provide certain services; prohibiting certain facilities from discharging patients into certain circumstances or transferring certain patients to correctional facilities or detention centers except under certain circumstances; requiring the Department to revoke a certain license in accordance with certain provisions of law under certain circumstances; prohibiting certain benefits provided under certain health benefit plans from having a copayment, deductible, or coinsurance requirement applied to the benefits by an insurer, a nonprofit health service plan, or a health maintenance organization; requiring the Maryland Police Training and Standards Commission to implement certain standards for police officers when responding to an incident involving an individual suspected to be suicidal; providing for the application of this Act; and generally relating to the treatment of and response efforts to individuals who are suicidal, have attempted suicide, or are suspected to be suicidal.

BY repealing and reenacting, with amendments,

Article – Health – General
Section 7.5–501, 10–701, 10–709, and 10–1003
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 3–201(a) and (b)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY adding to
Article – Public Safety
Section 3–207(j)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

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

Article – Health – General

7.5–501.

(a) The Department shall establish and operate a toll-free Health Crisis Hotline 24 hours a day and 7 days a week.

(b) The Health Crisis Hotline shall assist callers by:

(1) Conducting a comprehensive evidence–based screening for mental health and substance use needs, cognitive or intellectual functioning, infectious disease, and acute somatic conditions;

(2) Conducting a risk assessment for callers experiencing an overdose or potentially committing suicide or a homicide;

(3) Connecting callers to an emergency response system when indicated;

(4) Referring callers for ongoing care; and

(5) Following up with callers to determine if the needs of callers were met.

(c) The Department shall collect and maintain the following information to provide to callers on the Health Crisis Hotline:

(1) The names, telephone numbers, and addresses of:

(i) Residential, inpatient, and outpatient substance use disorder
and mental health programs, including information on private programs and programs
administered by local health departments and other public entities; and

(ii) Hospitals, including hospital emergency rooms, and other
facilities that provide detoxification services;

(2) The levels of care provided by the programs, hospitals, and facilities
identified under item (1) of this subsection; and

(3) Whether the programs, hospitals, and facilities identified under item
(1) of this subsection:

(i) Accept payment for services from a third-party payor, including
Medicare, Medicaid, and private insurance; and

(ii) Provide services:

1. That are specific to pregnant women;

2. That are gender specific;

3. For individuals with co–occurring disorders;

4. To support parents of children with substance use and
mental health disorders; and

5. For grief support.

(d) (1) The Department shall provide training for Health Crisis Hotline staff
who assist callers on the Health Crisis Hotline to ensure that staff are able to [provide];

(I) PROVIDE sufficient information [and respond];

(II) RESPOND appropriately to callers who may be in a crisis; AND

(III) PROVIDE GENERAL COUNSELING AS WELL AS COUNSELING
FOR SUICIDAL INDIVIDUALS WHO MAY BE IN A CRISIS.

(2) To the extent practicable, the Department shall ensure that
information provided to callers on the Health Crisis Hotline is up to date and accurate.

(e) The Department shall disseminate information about the Health Crisis
Hotline to the public, both directly and through public and private organizations that serve
the public.
In this subtitle the following words have the meanings indicated.

(2) (i) “Advocate” means a person who provides support and guidance to an individual in a facility.

(ii) “Advocate” includes a family member or friend.

(iii) “Advocate” does not include an attorney acting in the capacity of legal counsel to an individual in a facility during the treatment planning and discharge planning process.

(3) “Facility” does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

(4) (i) “Mental abuse” means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) “Mental abuse” does not include the performance of an accepted clinical procedure.

(5) (i) “Prone restraint” means restricting the free movement of all or a portion of an individual’s body through the use of physical force or mechanical devices while the individual is in a prone position.

(ii) “Prone restraint” does not include a technique for transitioning an individual to a restraint position that involves momentarily placing the individual face down.

(6) “State facility” means an inpatient facility that is maintained under the direction of the Behavioral Health Administration.

(7) “Trauma–informed care” means mental health treatment that includes:

(i) An appreciation for the high prevalence of trauma experienced by individuals receiving mental health services;

(ii) An understanding of the neurological, biological, psychological, and social effects of trauma and violence, including sexual abuse and exploitation, on an individual; and

(iii) An understanding of the environment, practices, and treatments that may need to be modified to address trauma issues.

(b) It is the policy of this State that each individual with a mental disorder who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.
(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual’s personal liberty within a facility only to the extent necessary and consistent with the individual’s treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or seclusions except for restraints or seclusions that are:

   (i) Used only during an emergency in which the behavior of the individual places the individual or others at serious threat of violence or injury; and
   
   (ii) 1. Ordered by a physician in writing; or
         2. Directed by a registered nurse if a physician’s order is obtained within 2 hours of the action;

(4) Be free from prone restraint;

(5) Be free from restraint that:

   (i) Applies pressure to the individual’s back;
   
   (ii) Obstructs the airway of the individual or impairs the individual’s ability to breathe;
   
   (iii) Obstructs a staff member’s view of the individual’s face; or
   
   (iv) Restricts the individual’s ability to communicate distress;

(6) Be free from mental abuse;

(7) Be protected from harm or abuse as provided in this subtitle;

(8) Except as provided in subsection [(e) (F)] of this section, and subject to subsection [(k) (L)] of this section, have the right to an advocate of the individual’s choice to participate in the treatment planning and discharge planning process; and

(9) Subject to the provisions of § 10–708 of this subtitle, if the individual has an advance directive for mental health services provided for in § 5–602.1 of this article, receive treatment in accordance with the preferences in the advance directive.
(D) EACH FACILITY SHALL ENSURE THAT:

(1) ALL SUICIDAL PATIENTS AND PATIENTS WHO HAVE ATTEMPTED SUICIDE ARE TREATED WITH THE SAME RESPECT, COMPASSION, AND DIGNITY AS PATIENTS WHO HAVE PHYSICAL AILMENTS; AND

(2) ALL CLINICAL STAFF:

(I) HAVE A GOOD BEDSIDE MANNER;

(II) CONDUCT THEMSELVES IN A MANNER SO AS NOT TO RE–TRAUMATIZE A SUICIDAL PATIENT OR PATIENT WHO HAS ATTEMPTED SUICIDE;

(III) TREAT PATIENTS IN AN AGE–APPROPRIATE MANNER;

(IV) EVALUATE WHETHER ANY CAREGIVERS OF THE PATIENT ARE ABUSIVE, CONTROLLING, OR DYSFUNCTIONAL AND ADDRESS THOSE SITUATIONS APPROPRIATELY;

(V) RECEIVE TRAINING IN DE–STIGMATIZATION OF MENTAL ILLNESSES; AND

(VI) REFRAIN FROM PERFORMING A PSYCHOLOGICAL TEST ON A PATIENT WHO IS CURRENTLY IN CRISIS OR WHO HAS RECENTLY BEEN IN CRISIS.

[(d)] (E) A State facility shall ensure that:

(1) All clinical, direct care, and other designated staff with regular patient interaction receive training in trauma–informed care and demonstrate competency in providing trauma–informed care services within 3 months of being hired and on an annual basis;

(2) Any policy or practice followed by the facility is reviewed and revised to conform with trauma–informed care principles; and

(3) The physical environment of the facility is assessed at least annually and modified if the modifications:

(i) Are necessary to ensure conformity with trauma–informed care principles; and

(ii) Can be funded through the State’s operating budget or capital budget.

[(e)] (F) Notwithstanding the provisions of subsection (c)(8) of this section, a
facility may prohibit an advocate from participating in the treatment planning or discharge
planning process for an individual if:

(1) (i) The individual is a minor or an adult under guardianship in
accordance with § 13–705 of the Estates and Trusts Article; and

(ii) The parent of the minor or the legal guardian of the individual
has requested that the advocate not participate; or

(2) The advocate has engaged in behavior that:

(i) Is disruptive to the individual, other patients, or staff at the
facility; or

(ii) Poses a threat to the safety of the individual, other patients, or
staff at the facility.

(f) A facility shall:

(1) Have a written policy specifying the method used to ensure that an
individual whose primary language or method of communication is nonverbal is able to
effectively communicate distress during a physical restraint or hold; [and]

(2) Ensure that all staff at the facility who are authorized to participate in
a physical restraint or hold of individuals are trained in the method specified in the written
policy required under item (1) of this subsection;

(3) EMPLOY A SUFFICIENT NUMBER OF INDIVIDUALS WHO ARE:

(I) TRAINED IN PROVIDING COUNSELING TO SUICIDAL
INDIVIDUALS AND INDIVIDUALS WHO HAVE ATTEMPTED SUICIDE; AND

(II) AVAILABLE TO PROVIDE:

1. ONE–ON–ONE COUNSELING TO PATIENTS WHO ARE
SUICIDAL OR HAVE ATTEMPTED SUICIDE;

2. DAILY COUNSELING TO ALL PATIENTS IN A FACILITY;

AND

3. IF THE FACILITY IS AN ACUTE GENERAL HOSPITAL
WITH AN EMERGENCY DEPARTMENT, ASSESSMENT, IMMEDIATE CRISIS
COUNSELING, AND EVALUATION FOR INDIVIDUALS PRESENTING WITH A MENTAL
HEALTH CRISIS AT THE EMERGENCY DEPARTMENT OF THE FACILITY; AND
(4) **ENSURE ACCESS FOR PATIENTS TO AT LEAST ONE COUNSELOR DESCRIBED IN ITEM (3)(II) OF THIS SUBSECTION 24 HOURS A DAY, 7 DAYS A WEEK.**

[(g)] (H) Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

[(h)] (I) (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director’s designee:

   (i) Before pursuing any investigation:

       1. Shall interview the individual whose rights have been allegedly violated; and

       2. Shall attempt to obtain written consent from the individual; and

   (ii) If the individual is unable to give written consent but does not object to the investigation:

       1. Shall document this fact; and

       2. Shall request, in writing, access to the individual’s records from the Director of the Behavioral Health Administration.

(2) On receipt of the request for access to the individual’s records, the Director of the Behavioral Health Administration shall authorize access to the individual’s records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director’s designee, may pursue an investigation and, as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

[(i)] (J) (1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual’s condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.
[(j)] (K) A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

[(k)] (L) This section may not be construed to:

(1) Grant the advocate of an individual legal authority that the advocate does not otherwise have under law to make decisions on behalf of the individual regarding treatment or discharge;

(2) Grant the advocate access to the medical records of the individual or other confidential information that the advocate does not otherwise have access to under law; or

(3) Limit the legal authority that an attorney or other person otherwise has under law to participate in the treatment planning and discharge planning process or to otherwise act on behalf of an individual in a facility.

10–709.

(a) In accordance with § 10–809 of this title, a facility shall prepare a written aftercare plan for an individual who has been accepted as a resident in the facility before that individual is released from the facility.

(b) The aftercare plan prepared under this section shall be offered to individuals who have been accepted as residents in a facility who are scheduled for release from a facility under this title.

[(c)] (D) The Secretary shall adopt regulations governing the planning and provisions of aftercare plans including:

(1) Procedures to obtain the consent of the individual; or

(2) Procedures to assist an individual who is unable to participate fully in aftercare planning.

10–1003.
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(a) A person may not interfere knowingly with the rights of an individual under § 10–701, § 10–702, § 10–703, § 10–704, § 10–706, or § 10–707 of this title.

(b) (1) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

(2) If an officer, an operator, or a director of a private, inpatient facility knowingly participates in a violation of this section, the Department shall revoke the license to operate the facility in accordance with § 10–510 of this title.

Article – Insurance

15–802.

(a) (1) In this section the following words have the meanings indicated.

(2) “Alcohol misuse” has the meaning stated in § 8–101 of the Health – General Article.

(3) “ASAM criteria” means the most recent edition of the American Society of Addiction Medicine treatment criteria for addictive, substance–related, and co–occurring conditions that establishes guidelines for placement, continued stay and transfer or discharge of patients with addiction and co–occurring conditions.

(4) “Drug misuse” has the meaning stated in § 8–101 of the Health – General Article.

(5) “Grandfathered health plan coverage” has the meaning stated in 45 C.F.R. § 147.140.

(6) “Health benefit plan” means:

(i) for a group or blanket plan, a health benefit plan as defined in § 15–1401 of this title;

(ii) for an individual plan, a health benefit plan as defined in § 15–1301(l) of this title; or

(iii) short–term limited duration insurance as defined in § 15–1301(s) of this title.

(7) “Managed care system” means a system of cost containment methods that a carrier uses to review and preauthorize a treatment plan developed by a health care provider for a covered individual in order to control utilization, quality, and claims.
(8) “Partial hospitalization” means the provision of medically directed intensive or intermediate short–term treatment:

(i) to an insured, subscriber, or member;

(ii) in a licensed or certified facility or program;

(iii) for mental illness, emotional disorders, drug misuse, or alcohol misuse; and

(iv) for a period of less than 24 hours but more than 4 hours in a day.

(9) “Small employer” has the meaning stated in § 31–101 of this article.

(b) With the exception of small employer grandfathered health plan coverage, this section applies to each individual, group, and blanket health benefit plan that is delivered or issued for delivery in the State by an insurer, a nonprofit health service plan, or a health maintenance organization.

(c) A health benefit plan subject to this section shall provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug use disorder, or alcohol use disorder:

(1) inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient and residential treatment center benefits;

(2) partial hospitalization benefits; and

(3) outpatient and intensive outpatient benefits, including all office visits, diagnostic evaluation, opioid treatment services, medication evaluation and management, and psychological and neuropsychological testing for diagnostic purposes.

(d) (1) The benefits under this section are required only for expenses arising from the treatment of mental illnesses, emotional disorders, drug misuse, or alcohol misuse if, in the professional judgment of health care providers:

(i) the mental illness, emotional disorder, drug misuse, or alcohol misuse is treatable; and

(ii) the treatment is medically necessary.

(2) The benefits required under this section:

(i) shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug misuse, and alcohol misuse;
(ii) shall comply with 45 C.F.R. § 146.136(a) through (d) and 29 C.F.R. § 2590.712(a) through (d);

(iii) subject to paragraph (3) of this subsection, may be delivered under a managed care system; [and]

(iv) for partial hospitalization under subsection (c)(2) of this section, may not be less than 60 days; AND

(V) FOR COUNSELING AND ASSESSMENT FOR SUICIDAL INDIVIDUALS OR INDIVIDUALS WHO HAVE ATTEMPTED SUICIDE AS DESCRIBED IN § 10–701(G)(3)(II) OF THE HEALTH – GENERAL ARTICLE, MAY NOT HAVE A COPAYMENT, DEDUCTIBLE, OR COINSURANCE REQUIREMENT APPLIED TO THE BENEFITS BY AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION UNDER A HEALTH BENEFIT PLAN.

(3) The benefits required under this section may be delivered under a managed care system only if the benefits for physical illnesses covered under the health benefit plan are delivered under a managed care system.

(4) The processes, strategies, evidentiary standards, or other factors used to manage the benefits required under this section must be comparable as written and in operation to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used to manage the benefits for physical illnesses covered under the health benefit plan.

(5) An insurer, nonprofit health service plan, or health maintenance organization shall use the ASAM criteria for all medical necessity and utilization management determinations for substance use disorder benefits.

(e) An entity that issues or delivers a health benefit plan subject to this section shall provide on its website and annually in print to its insureds or members:

(1) notice about the benefits required under this section and the federal Mental Health Parity and Addiction Equity Act; and

(2) notice that the insured or member may contact the Administration for further information about the benefits.

(f) An entity that issues or delivers a health benefit plan subject to this section shall:

(1) post a release of information authorization form on its website; and

(2) provide a release of information authorization form by standard mail within 10 business days after a request for the form is received.
Article – Public Safety

3–201.

(a) In this subtitle the following words have the meanings indicated.

(b) “Commission” means the Maryland Police Training and Standards Commission.

3–207.

(j) The Commission shall implement standards for police officers to ensure that, when responding to an incident involving an individual suspected to be suicidal:

(1) The police officer is accompanied by an individual trained in providing counseling and assessment to suicidal individuals;

(2) The police officer and other responding police officers do not use force or draw weapons unless the individual suspected to be suicidal presents a clear threat to others; and

(3) The individual suspected to be suicidal is approached in a gentle and respectful manner.

SECTION 2. AND BE IT FURTHER ENACTED, That § 15–802 of the Insurance Article, as enacted by Section 1 of this Act, shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2022.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.