

STATE OF MARYLAND



Andrew N. Pollak
CHAIR

Ben Steffen
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410-358-1236

March 17, 2020

The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee
Room 241, House Office Building
Annapolis, MD 21401

RE: SB 519 –Public Health – Behavioral Health Programs and Health Care Facilities – Safety Plan - INFORMATION

Dear Chair Pendergrass:

The Maryland Health Care Commission (the “Commission”) would like to provide the Health and Government Operations Committee with information related to Senate Bill 519 (SB 519).

SB 519 adds a new section 19-150 to the subtitle 1 of title 19 of the Health General Article. Subtitle 1 of Title 19 of the Health General Article pertains to the Commission, which is an independent regulatory commission. The language of the proposed new section 19-150 directs the Maryland Department of Health (the “Department”) to take certain actions, including actions related to licensure of facilities. The Commission does not grant licenses.¹ The Commission recommends that that these directions to the Department should be placed in a subtitle of the Maryland code that directly applies to the relevant component of the Department that would execute the responsibility required in this bill, including granting licenses, rather than making an amendment to subtitle 1 of title 19 of Health General.

Through the Certificates of Need program, the Commission regulates the establishment of certain new “health care facilities” (as such term is defined in Health General § 19-114(d)), certain changes in those health care facilities, and specified medical services. Once a health care facility is built or a Commission-approved project is completed, the Commission has no ongoing oversight over most facilities and health programs.² Licensure is a more appropriate tool for monitoring ongoing operational activities of health programs. The Commission encourages the Committee to consider whether safety plans are more appropriately regulated through licensure and accreditation or Certificate of Need.

¹ The Commission does grant Certificates of Need.

² The Commission does provide ongoing oversight over certain cardiac services, as specified in statute.

Note: The Maryland Health Care Commission is an independent State agency. The position of the Commission may differ from the Maryland Department of Health

In addition to the general concern about the statutory placement of the proposed amendment to subtitle 1 of title 19 of Health General, the Commission has some specific concerns with the terms used in that amendment. SB 519 uses the term “facility” but does not define that term. With no definition of ‘facility’, SB 519 is overly broad and vague. As noted above, there is a definition of “health care facility” in Health General § 19-114(d) that is used by the Commission for State Health Planning activities and Certificate of Need reviews. The statutory definition of “health care facility” applies to specified types of health care facilities, including hospitals, nursing homes, ambulatory surgery facilities, intermediate care facilities, home health agencies, hospices, and free standing medical facilities. This definition is not limited to behavioral health facilities. The Commission does not believe the sponsors intended SB 519 to impact all of the facility types defined in Health General § 19-114(d). The sponsors may have also intended to cover other types of behavioral health programs that are not regulated by the Commission, including most outpatient behavioral health programs. The Commission recommends that the sponsors clarify the types of facilities impacted by this bill.

Additionally, the term “safety plan” is not defined in this bill. It is unclear what the meaning of this term is, and what the impact of a fully implemented safety plan would be.

The Commission is not offering an amendment because we are unclear about the intended scope of SB 519. The Commission staff will be pleased to work with the sponsors on crafting amendment language and the appropriate placement of an amendment in Health General.

I hope you find this information useful. Please feel free to contact me at (410) 764-3566 or Ben.Steffen@maryland.gov, or Megan Renfrew, Government Affairs and Special Projects, at (410) 764-3483 or Megan.Renfrew@maryland.gov if you have any questions.

Sincerely,



Ben Steffen
Executive Director
Maryland Health Care Commission