



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 12, 2024

The Honorable Senator Pamela Beidle
Chair, Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill 888– Health - Local Behavioral Health Authorities and Oversight of Behavioral Health Programs - Letter of Support with Amendments

Dear Chair Beidle and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of support with amendments for Senate Bill (SB) 888 – Health - Local Behavioral Health Authorities and Oversight of Behavioral Health Programs.

SB 888 authorizes local behavioral health authorities (LBHAs) to hire their own inspectors to monitor behavioral health program quality and safety, track complaints against behavioral health programs and health care providers working at the programs, and forward certain complaint information to licensing boards for a certain purpose and requires behavioral health programs to seek community input when adopting its agreement to cooperate with a local behavioral health authority.

As part of the current licensure process, Maryland regulation requires that each local behavioral health authority enter into an agreement to cooperate, which identifies the LBHA as a designee of the Maryland Department of Health (MDH) for the intent and purposes of carrying out behavioral health activities in each jurisdiction. These activities include, but are not limited to, complaint investigations, transition of services, program closures, and/or service discontinuation. Most LBHAs already have staff who serve in this capacity. The Department provides financial support to local behavioral health authorities through its annual budget allocation to LBHAs for implementing these activities.

SB 888 would require the LBHA to seek community input when adopting an agreement to cooperate. The bill does not currently define the type of community input sought or what the possible effects of such community input would be. LBHAs do not have the authority to deny an agreement to cooperate with a provider, but allowing community input into a process suggests that the LBHA might be able to exercise such authority. If an LBHA were to have the authority to deny an agreement to cooperate, that would be the equivalent of a license denial, in which providers have the right to appeal under COMAR 10.63.06.19. This will require the LBHAs to

develop an appeals process. As currently drafted, the bill also does not include information on potential reasonable grounds for denial, which will allow jurisdictions to fairly and equitably implement the process of denying agreements to cooperate across jurisdictions. BHA recommends amending the bill to clarify that the LBHA cannot refuse to sign an agreement to cooperate, regardless of community input, and to further clarify what type of community input will be sought. While valuable, community input unfortunately often takes the form of communities violating the privacy of individuals in recovery or living with serious mental illness, as well as increasing the stigma faced by these individuals.

The Department's Behavioral Health Administration (BHA) currently works with LBHAs to ensure a coordinated response to monitoring behavioral health program quality and safety. LBHAs investigate complaints and critical incidents against behavioral health programs. Upon investigation, the LBHA provides technical assistance to licensed providers, issues plans of correction, and makes referrals to health occupation boards when individual practitioners have been identified as potentially operating outside the scope of their licensure requirements.

BHA notes that any additional inspectors hired by the LBHA will not fall under the LBHA's delegated authority and the presence of inspectors hired by the local authority will complicate the LBHA's ability to engage in enforcement activities. BHA recommends amending the bill to include language to clarify that, while the LBHAs may provide funding for additional investigator positions, those investigators will remain employees of the LBHA as an agent of BHA. This amendment would preserve the delegated authority required by law and prevent the creation of two parallel processes for investigation or other enforcement issues.

The Department supports the legislation's intent and would like to propose amendments that include revisions to align with the State's investments in updating licensing and compliance, provision of oversight for the monitoring of and tracking of complaints and their disposition.

If you have any further questions, please contact Sarah Case-Herron, Director, Office of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary