

## **SB 945 – Community–Based Residential Facilities – Licensing Entities – Provision of Licensing Criteria and Single Point of Contact**

**Hearing before Senate Finance Committee, March 4, 2025**

**Position: OPPOSED (UNF)**

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Disability Rights Maryland (DRM) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be part of their communities and live in safe, affordable, and accessible housing, including community residential facilities, when needed.

SB 945 targets community residential facilities in which persons with disabilities reside while simultaneously undermining the expertise of agencies that are statutorily mandated to issue licenses pursuant to established criteria and regulations set forth in statute and regulation.

To illustrate, Md. Health-General Code Ann. § 7-102 established the Developmental Disabilities Administration (the “Department”) which administers and oversees services provided to Marylanders with developmental disabilities. Health-General, § 7-903 requires that a person shall be licensed by the Department before the person may provide services to an individual with a developmental disability or a recipient of individual support services and the Department shall adopt regulations providing for the services requiring licensure under paragraph (1) of this subsection. Licensing regulations are set forth in Title 10, Subtitle 22 of COMAR which provide specific standards for the granting or denial of a person requesting a license under Health-General or COMAR. *See* 10.22.02.01-1, *et seq.* COMAR 10.22.02.02 provides the minimum criteria for an applicant applying for an initial or renewal license.<sup>1</sup>

Moreover, the statute itself mandates rules and regulations, investigations of applicants and inspections.<sup>2</sup> (*See* Health-Gen., §§ 7-901, *et seq.*). The Department must promptly investigate the applicant when an application for a license is filed. (*Id.*, § 7-906 -Investigations). As indicated, the Department conducts inspections at least once annually and at any other time it considers necessary. Therefore, if a family member or neighbor has concerns about a group home or other facility, they can report it to DDA and request an inspection.

Essentially, the accountability that SB 945 is seeking to establish already exists. It is incorporated into the statutory and regulatory frameworks. SB 945 is thus redundant and unnecessary in addition to likely being discriminatory.

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<sup>1</sup> (*See* [Pages - 10.22.02.02.aspx](#)).

<sup>2</sup> (1) The Department shall inspect each site or office operated by a licensee at least once annually and at any other time that the Department considers necessary.

(2) The Department shall evaluate periodically the performance of surveyors who carry out inspections under this subsection to ensure the consistent and uniform interpretation and application of licensing requirements.

(c) The Department shall keep a report of each inspection.

The federal Fair Housing Act (FHA) as amended in 1988, prohibits housing discrimination on the basis of “handicap,” (or “disability”) which is defined as: “(1) a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance. *See* 42 U.S.C. § 3602(h).

By targeting group homes or residential facilities in which persons with development disabilities (Health-Gen., Title 8) or persons with mental health disabilities (Health-Gen., Title 7.5) may reside, SB 945 appears on its face to discriminate against people with disabilities yet serves no legitimate government interest, in violation of the Fair Housing Amendments Act. *See Potomac Group Home Corp. v. Montgomery County, Md.*, 823 F.Supp.1285, 1295 (D.Md.1993), *citing Horizon House, Developmental Services, Inc. v. Township of Upper Southampton*, 804 F.Supp. 683, 693 (E.D.Pa.1992). *See also, City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 115 S. Ct. 1776 (1995), in which the Court held that a zoning code section that did not cap the number of people who may live in a dwelling (as long as they were related by “genetics, adoption, or marriage”) was not a maximum occupancy restriction exempt from the FHAA under 42 U.S.C. § 3607(b)(1).

Finally, SB 945 potentially creates an administration burden for the Developmental Disabilities and the Behavioral Health Administrations. There’s no proposed limit on requests for documents under SB 945, which could divert staff time and attention from their substantive job duties and increase costs for paper and other supplies.

In addition to the fact that the Health-General statute and COMAR Regs provide accountability – as previously noted, citizens have the right to request documents from any State agency through the Maryland Public Information Act, for which agencies have processes in place.

For the reasons set forth above, **Disability Rights Maryland urges an unfavorable report on SB 945.**

**Please contact me with any questions regarding this testimony.**

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