

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1172

(Chair, Health and Government Operations  
Committee)(By Request - Departmental - Health and  
Mental Hygiene)

Health and Government Operations

Finance

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**Individuals With Developmental Disabilities - Providers - Licenses**

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This departmental bill replaces “Administration,” referring to the Developmental Disabilities Administration (DDA), and “in conjunction with the Office of Health Care Quality” (OHCQ) with the term “the Department,” referring to the Department of Health and Mental Hygiene (DHMH), thereby allowing DHMH as a whole to perform specified functions. Thus, specified functions previously performed by DDA may be delegated to OHCQ. The bill modifies the licensing process and allows DHMH to impose sanctions, including money penalties, on licensees who fail to substantially comply with applicable State laws, regulations, or rules.

The bill takes effect September 1, 2015.

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**Fiscal Summary**

**State Effect:** General fund revenues increase due to expansion of civil money penalty authority; the amount of the increase cannot be reliably estimated. Expenditures are not materially affected.

**Local Effect:** None.

**Small Business Effect:** DHMH has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

### Bill Summary/Current Law:

#### *Licensure Requirement*

Under current law, in addition to any other license required, a person must be licensed by DDA in order to provide the following services to an individual with a developmental disability or a recipient of individual support services:

- day habilitation services;
- residential services;
- services coordination;
- vocational services;
- more than one family support service;
- more than one individual support service; and
- more than one community-supported living arrangements service.

If a person is licensed or certified by another State agency or accredited by a national accreditation agency to provide services to an individual with a developmental disability or a recipient of individual support services, the deputy Secretary may waive the requirement for a license by DDA.

The bill repeals the list of services for which licensure by DHMH is required and instead requires DHMH to adopt regulations listing the services requiring licensure. DHMH may waive the requirement that a person be licensed by DHMH before providing services to an individual with a developmental disability or a recipient of individual support services, if the person is licensed or certified by another State agency or accredited by an accrediting organization approved by the Secretary of Health and Mental Hygiene.

#### *Application for Licensure*

Under current law, DDA must issue a license to any applicant that meets specified requirements, rules, and regulations, with specified exceptions.

The bill repeals language that requires DDA to issue a license and instead specifies that an applicant for a license must meet all of the requirements set out in rules and regulations in order to be issued a license.

## *Sanctions*

Under current law, DDA may impose a penalty of up to \$500 per day per violation for each day a violation occurs on a licensee that fails to meet certain reporting requirements. Before DDA takes any action with respect to sanctions, DDA must give any applicant or licensee notice and an opportunity for a hearing.

Under the bill, DHMH may also impose sanctions, including a civil money penalty, for failure by a licensee to substantially comply with applicable State laws, regulations, or rules. DHMH must adopt rules and regulations regarding the imposition of sanctions. The civil money penalty is limited to \$5,000. When determining the amount of any civil money penalty, DHMH must consider (1) the number, nature, and seriousness of the violations; (2) the degree of risk to health, life, or safety posed by the violations; (3) the efforts made to correct the violations; (4) any history of similar violations; (5) whether the penalty imposed will jeopardize the financial ability of the licensee to continue to serve individuals; and (6) other reasonable factors as determined by DHMH. If a civil money penalty is imposed, DHMH must offer the licensee an opportunity to informally resolve the dispute. If the dispute cannot be resolved informally, DHMH must provide specified information to the licensee and an opportunity for a hearing. DHMH has the burden of proof regarding the imposition of a civil money penalty.

The bill also clarifies that, with specified exceptions, DHMH must give any applicant or licensee notice and an opportunity for a hearing before any action may be taken against him or her.

**Background:** OHCQ within DHMH is the agency mandated by State and federal law to determine compliance with the quality of care and life standards for a variety of health care services and programs. OHCQ licenses and regulates more than 14,000 medical facilities, ranging from hospitals and ambulatory surgical centers to nursing homes and facilities for the developmentally disabled. Facilities and services are reviewed on a regular basis for compliance with the Code of Maryland Regulations, as well as for compliance with federal regulations in those facilities participating in Medicare and Medicaid. The agency also registers consumer complaints.

DDA advises that it intends to implement, pursuant to regulations yet to be adopted under the bill, a licensing process that includes a pre-screening of applications by DDA. An applicant for a license would first seek DDA's approval, submitting all required materials to demonstrate that the provider would be capable of providing appropriate services. DDA would then allow the applicant to submit a full application to OHCQ. The screening process would ensure that OHCQ would no longer be required to process applications that would not meet DDA's licensing standards.

DDA further advises that it has already delegated provider licensing authority to OCHQ and that the proposed changes to the statute are intended to allow providers to apply directly to OCHQ for licensure.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 16, 2015  
md/ljm Revised - House Third Reader - April 11, 2015

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**ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**

TITLE OF BILL: Licensing for Providers of Services to Individuals with  
Developmental Disabilities

BILL NUMBER: HB 1172

PREPARED BY: Developmental Disabilities Administration and the Office of Health  
Care Quality

**PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

  X   WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON  
MARYLAND SMALL BUSINESS

OR

       WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

**PART B. ECONOMIC IMPACT ANALYSIS**

No impact is anticipated.