

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 211

(Senator Waugh, *et al.*)

Finance

Health and Government Operations

Behavioral Health Programs - Medical Directors - Telehealth

This bill requires regulations governing behavioral health programs to include a provision authorizing a behavioral health program located in a federally designated health professional shortage area (HPSA) to satisfy any regulatory requirement that the medical director be on site through the medical director's use of telehealth.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: The bill is unlikely to affect local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Current Law: A behavioral health program must be licensed by the Secretary of Health before program services may be offered; however, the Secretary may exempt specified entities from licensure requirements, including (1) a licensed health professional, in either solo or group practice, who is providing mental health or substance-related disorder services according to the requirements of the appropriate professional board; (2) Alcoholics Anonymous, Narcotics Anonymous, recovery residences, peer support services, family support services, or other similar organizations; and (3) accredited outpatient behavioral health treatment and rehabilitation services provided in a regulated space in a hospital.

Regulations governing behavioral health programs must include (1) requirements for licensure; (2) the license application process; (3) a description of the behavioral health programs that must be licensed; (4) any governance requirements, including a provision prohibiting a conflict of interest between the interests of the provider and those of the individual receiving services; (5) inspection provisions; and (6) provisions for denials, sanctions, suspensions, and revocations of licenses, including imposition of civil monetary penalties, and notice and an opportunity to be heard. Regulations may include provisions setting reasonable fees for applying for a license and for the issuance and renewal of licenses.

As a condition of licensure, an outpatient mental health center must employ a medical director who (1) is a psychiatrist; (2) has overall responsibility for clinical services; and (3) is *on site* for at least 20 hours per week. In addition, an “opioid treatment service” must be under the direction of a medical director who is a physician with specified experience and qualifications.

Background: According to a 2017 report by the National Council Medical Director Institute, the pool of psychiatrists working with public sector and insured populations declined by 10% between 2003 and 2013, due in part to aging of the workforce, low rates of reimbursement, burnout, burdensome documentation requirements, and restrictive regulations around sharing clinical information necessary to coordinate care. The report noted that, nationally, 77% of counties are underserved by psychiatrists, and there is a 6.4% shortage in the psychiatry workforce, which is anticipated to grow to as much as 25% by 2025.

Outpatient mental health centers are required to have a medical director who is a psychiatrist and who is on site for at least 20 hours per week. Due to the shortage of psychiatrists, especially in rural areas of the State, some facilities have difficulty recruiting and retaining medical directors. The bill is intended to permit medical directors to provide their medical direction services via telehealth and relieve such facilities of the requirement to have the medical director on site.

HPSAs are geographic areas, populations, and facilities with too few primary care, dental, and mental health providers and services. HPSAs are designated by the U.S. Department of Health and Human Services’ Health Resources and Services Administration. There are 62 mental health HPSAs in Maryland, including certain correctional facilities, comprehensive health centers, census tracts, and populations.

Small Business Effect: Small business outpatient mental health centers in federally designated shortage areas may be able to more easily recruit and retain psychiatrists to serve as medical directors.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): National Council Medical Director Institute; Department of Budget and Management; Maryland Department of Health; Department of Legislative Services

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