

HOUSE BILL 1329

J1, J3, E4
HB 442/21 – HGO

2lr2997

By: **Delegate Jalisi**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Suicide Treatment Improvement Act**

3 FOR the purpose of establishing requirements and prohibitions related to the treatment of
4 and response efforts to individuals who are suicidal or who have attempted suicide,
5 including provisions related to the provision of and access to counseling, the
6 discharge and transfer of patients, cost-sharing requirements for insurance, and
7 standards for police response; and generally relating to the treatment of and
8 response efforts to individuals who are suicidal, have attempted suicide, or are
9 suspected to be suicidal.

10 BY repealing and reenacting, with amendments,
11 Article – Health – General
12 Section 7.5–501, 10–701, 10–709, and 10–1003
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Insurance
17 Section 15–802
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Public Safety
22 Section 3–201(a) and (b)
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2021 Supplement)

25 BY adding to
26 Article – Public Safety
27 Section 3–207(k)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2018 Replacement Volume and 2021 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article – Health – General**

6 7.5–501.

7 (a) The Department shall establish and operate a toll-free Health Crisis Hotline
8 24 hours a day and 7 days a week.

9 (b) The Health Crisis Hotline shall assist callers by:

10 (1) Conducting a comprehensive evidence-based screening for mental
11 health and substance use needs, cognitive or intellectual functioning, infectious disease,
12 and acute somatic conditions;

13 (2) Conducting a risk assessment for callers experiencing an overdose or
14 potentially committing suicide or a homicide;

15 (3) Connecting callers to an emergency response system when indicated;

16 (4) Referring callers for ongoing care; and

17 (5) Following up with callers to determine if the needs of callers were met.

18 (c) The Department shall collect and maintain the following information to
19 provide to callers on the Health Crisis Hotline:

20 (1) The names, telephone numbers, and addresses of:

21 (i) Residential, inpatient, and outpatient substance use disorder
22 and mental health programs, including information on private programs and programs
23 administered by local health departments and other public entities; and

24 (ii) Hospitals, including hospital emergency rooms, and other
25 facilities that provide detoxification services;

26 (2) The levels of care provided by the programs, hospitals, and facilities
27 identified under item (1) of this subsection; and

28 (3) Whether the programs, hospitals, and facilities identified under item
29 (1) of this subsection:

30 (i) Accept payment for services from a third-party payor, including

1 Medicare, Medicaid, and private insurance; and

2 (ii) Provide services:

3 1. That are specific to pregnant women;

4 2. That are gender specific;

5 3. For individuals with co-occurring disorders;

6 4. To support parents of children with substance use and
7 mental health disorders; and

8 5. For grief support.

9 (d) (1) The Department shall provide training for Health Crisis Hotline staff
10 who assist callers on the Health Crisis Hotline to ensure that staff are able to [provide]:

11 (I) **PROVIDE** sufficient information [and respond];

12 (II) **RESPOND** appropriately to callers who may be in a crisis; **AND**

13 (III) **PROVIDE GENERAL COUNSELING AS WELL AS COUNSELING**
14 **FOR SUICIDAL INDIVIDUALS WHO MAY BE IN A CRISIS.**

15 (2) To the extent practicable, the Department shall ensure that
16 information provided to callers on the Health Crisis Hotline is up to date and accurate.

17 (e) The Department shall disseminate information about the Health Crisis
18 Hotline to the public, both directly and through public and private organizations that serve
19 the public.

20 10-701.

21 (a) (1) In this subtitle the following words have the meanings indicated.

22 (2) (i) “Advocate” means a person who provides support and guidance
23 to an individual in a facility.

24 (ii) “Advocate” includes a family member or friend.

25 (iii) “Advocate” does not include an attorney acting in the capacity of
26 legal counsel to an individual in a facility during the treatment planning and discharge
27 planning process.

28 (3) “Facility” does not include an acute general care hospital that does not

1 have a separately identified inpatient psychiatric service.

2 (4) (i) “Mental abuse” means any persistent course of conduct resulting
3 in or maliciously intended to produce emotional harm.

4 (ii) “Mental abuse” does not include the performance of an accepted
5 clinical procedure.

6 (5) (i) “Prone restraint” means restricting the free movement of all or a
7 portion of an individual’s body through the use of physical force or mechanical devices while
8 the individual is in a prone position.

9 (ii) “Prone restraint” does not include a technique for transitioning
10 an individual to a restraint position that involves momentarily placing the individual face
11 down.

12 (6) “State facility” means an inpatient facility that is maintained under the
13 direction of the Behavioral Health Administration.

14 (7) “Trauma–informed care” means mental health treatment that includes:

15 (i) An appreciation for the high prevalence of trauma experienced
16 by individuals receiving mental health services;

17 (ii) An understanding of the neurological, biological, psychological,
18 and social effects of trauma and violence, including sexual abuse and exploitation, on an
19 individual; and

20 (iii) An understanding of the environment, practices, and treatments
21 that may need to be modified to address trauma issues.

22 (b) It is the policy of this State that each individual with a mental disorder who
23 receives any service in a facility has, in addition to any other rights, the rights provided in
24 this subtitle.

25 (c) Each individual in a facility shall:

26 (1) Receive appropriate humane treatment and services in a manner that
27 restricts the individual’s personal liberty within a facility only to the extent necessary and
28 consistent with the individual’s treatment needs and applicable legal requirements;

29 (2) Receive treatment in accordance with the applicable individualized
30 plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this
31 subtitle;

32 (3) Be free from restraints or seclusions except for restraints or seclusions
33 that are:

1 (i) Used only during an emergency in which the behavior of the
2 individual places the individual or others at serious threat of violence or injury; and

3 (ii) 1. Ordered by a physician in writing; or

4 2. Directed by a registered nurse if a physician's order is
5 obtained within 2 hours of the action;

6 (4) Be free from prone restraint;

7 (5) Be free from restraint that:

8 (i) Applies pressure to the individual's back;

9 (ii) Obstructs the airway of the individual or impairs the individual's
10 ability to breathe;

11 (iii) Obstructs a staff member's view of the individual's face; or

12 (iv) Restricts the individual's ability to communicate distress;

13 (6) Be free from mental abuse;

14 (7) Be protected from harm or abuse as provided in this subtitle;

15 (8) Except as provided in subsection [(e)] (F) of this section, and subject to
16 subsection [(k)] (L) of this section, have the right to an advocate of the individual's choice
17 to participate in the treatment planning and discharge planning process; and

18 (9) Subject to the provisions of § 10-708 of this subtitle, if the individual
19 has an advance directive for mental health services provided for in § 5-602.1 of this article,
20 receive treatment in accordance with the preferences in the advance directive.

21 **(D) EACH FACILITY SHALL ENSURE THAT:**

22 **(1) ALL SUICIDAL PATIENTS AND PATIENTS WHO HAVE ATTEMPTED**
23 **SUICIDE ARE TREATED WITH THE SAME RESPECT, COMPASSION, AND DIGNITY AS**
24 **PATIENTS WHO HAVE PHYSICAL AILMENTS; AND**

25 **(2) ALL CLINICAL STAFF:**

26 **(I) HAVE A GOOD BEDSIDE MANNER;**

27 **(II) CONDUCT THEMSELVES IN A MANNER SO AS NOT TO**
28 **RE-TRAUMATIZE A SUICIDAL PATIENT OR PATIENT WHO HAS ATTEMPTED SUICIDE;**

1 (III) TREAT PATIENTS IN AN AGE-APPROPRIATE MANNER;

2 (IV) EVALUATE WHETHER ANY CAREGIVERS OF THE PATIENT
3 ARE ABUSIVE, CONTROLLING, OR DYSFUNCTIONAL AND ADDRESS THOSE
4 SITUATIONS APPROPRIATELY;

5 (V) RECEIVE TRAINING IN DE-STIGMATIZATION OF MENTAL
6 ILLNESSES; AND

7 (VI) REFRAIN FROM PERFORMING A PSYCHOLOGICAL TEST ON A
8 PATIENT WHO IS CURRENTLY IN CRISIS OR WHO HAS RECENTLY BEEN IN CRISIS.

9 [(d)] (E) A State facility shall ensure that:

10 (1) All clinical, direct care, and other designated staff with regular patient
11 interaction receive training in trauma-informed care and demonstrate competency in
12 providing trauma-informed care services within 3 months of being hired and on an annual
13 basis;

14 (2) Any policy or practice followed by the facility is reviewed and revised to
15 conform with trauma-informed care principles; and

16 (3) The physical environment of the facility is assessed at least annually
17 and modified if the modifications:

18 (i) Are necessary to ensure conformity with trauma-informed care
19 principles; and

20 (ii) Can be funded through the State's operating budget or capital
21 budget.

22 [(e)] (F) Notwithstanding the provisions of subsection (c)(8) of this section, a
23 facility may prohibit an advocate from participating in the treatment planning or discharge
24 planning process for an individual if:

25 (1) (i) The individual is a minor or an adult under guardianship in
26 accordance with § 13-705 of the Estates and Trusts Article; and

27 (ii) The parent of the minor or the legal guardian of the individual
28 has requested that the advocate not participate; or

29 (2) The advocate has engaged in behavior that:

30 (i) Is disruptive to the individual, other patients, or staff at the
31 facility; or

1 (ii) Poses a threat to the safety of the individual, other patients, or
2 staff at the facility.

3 **[(f)] (G)** A facility shall:

4 (1) Have a written policy specifying the method used to ensure that an
5 individual whose primary language or method of communication is nonverbal is able to
6 effectively communicate distress during a physical restraint or hold; **[and]**

7 (2) Ensure that all staff at the facility who are authorized to participate in
8 a physical restraint or hold of individuals are trained in the method specified in the written
9 policy required under item (1) of this subsection;

10 **(3) EMPLOY A SUFFICIENT NUMBER OF INDIVIDUALS WHO ARE:**

11 **(I) TRAINED IN PROVIDING COUNSELING TO SUICIDAL**
12 **INDIVIDUALS AND INDIVIDUALS WHO HAVE ATTEMPTED SUICIDE; AND**

13 **(II) AVAILABLE TO PROVIDE:**

14 **1. ONE-ON-ONE COUNSELING TO PATIENTS WHO ARE**
15 **SUICIDAL OR HAVE ATTEMPTED SUICIDE;**

16 **2. DAILY COUNSELING TO ALL PATIENTS IN A FACILITY;**
17 **AND**

18 **3. IF THE FACILITY IS AN ACUTE GENERAL HOSPITAL**
19 **WITH AN EMERGENCY DEPARTMENT, ASSESSMENT, IMMEDIATE CRISIS**
20 **COUNSELING, AND EVALUATION FOR INDIVIDUALS PRESENTING WITH A MENTAL**
21 **HEALTH CRISIS AT THE EMERGENCY DEPARTMENT OF THE FACILITY; AND**

22 **(4) ENSURE ACCESS FOR PATIENTS TO AT LEAST ONE COUNSELOR**
23 **DESCRIBED IN ITEM (3)(II) OF THIS SUBSECTION 24 HOURS A DAY, 7 DAYS A WEEK.**

24 **[(g)] (H)** Subject to the provisions of §§ 4–301 through 4–309 of this article, the
25 records of each individual in a facility are confidential.

26 **[(h)] (I)** (1) Notwithstanding any other provision of law, when the State
27 designated protection and advocacy agency has received and documented a request for an
28 investigation of a possible violation of the rights of an individual in a facility that is owned
29 and operated by the Department or under contract to the Department to provide mental
30 health services in the community under this subtitle, the executive director of the
31 protection and advocacy agency or the executive director's designee:

1 (i) Before pursuing any investigation:

2 1. Shall interview the individual whose rights have been
3 allegedly violated; and

4 2. Shall attempt to obtain written consent from the
5 individual; and

6 (ii) If the individual is unable to give written consent but does not
7 object to the investigation:

8 1. Shall document this fact; and

9 2. Shall request, in writing, access to the individual's records
10 from the Director of the Behavioral Health Administration.

11 (2) On receipt of the request for access to the individual's records, the
12 Director of the Behavioral Health Administration shall authorize access to the individual's
13 records.

14 (3) After satisfying the provisions of paragraphs (1) and (2) of this
15 subsection, the executive director of the protection and advocacy agency, or the executive
16 director's designee, may pursue an investigation and, as part of that investigation, shall
17 continue to have access to the records of the individual whose rights have been allegedly
18 violated.

19 **[(i)] (J)** (1) On admission to a facility, an individual shall be informed of the
20 rights provided in this subtitle in language and terms that are appropriate to the
21 individual's condition and ability to understand.

22 (2) A facility shall post notices in locations accessible to the individual and
23 to visitors describing the rights provided in this subtitle in language and terms that may
24 be readily understood.

25 **[(j)] (K)** A facility shall implement an impartial, timely complaint procedure
26 that affords an individual the ability to exercise the rights provided in this subtitle.

27 **[(k)] (L)** This section may not be construed to:

28 (1) Grant the advocate of an individual legal authority that the advocate
29 does not otherwise have under law to make decisions on behalf of the individual regarding
30 treatment or discharge;

31 (2) Grant the advocate access to the medical records of the individual or
32 other confidential information that the advocate does not otherwise have access to under
33 law; or

1 (3) Limit the legal authority that an attorney or other person otherwise has
2 under law to participate in the treatment planning and discharge planning process or to
3 otherwise act on behalf of an individual in a facility.

4 10-709.

5 (a) In accordance with § 10-809 of this title, a facility shall prepare a written
6 aftercare plan for an individual who has been accepted as a resident in the facility before
7 that individual is released from the facility.

8 (b) The aftercare plan prepared under this section shall be offered to individuals
9 who have been accepted as residents in a facility who are scheduled for release from a
10 facility under this title.

11 **(C) A FACILITY MAY NOT:**

12 **(1) DISCHARGE A PATIENT INTO A CIRCUMSTANCE IN WHICH THE**
13 **PATIENT WILL BE HOMELESS; OR**

14 **(2) TRANSFER A SUICIDAL PATIENT TO A CORRECTIONAL FACILITY**
15 **OR DETENTION CENTER UNLESS THE PATIENT IS DETERMINED TO PRESENT A**
16 **DANGER TO THE LIFE OR SAFETY OF OTHERS.**

17 **[(c)] (D)** The Secretary shall adopt regulations governing the planning and
18 provisions of aftercare plans including:

19 (1) Procedures to obtain the consent of the individual; or

20 (2) Procedures to assist an individual who is unable to participate fully in
21 aftercare planning.

22 10-1003.

23 (a) A person may not interfere knowingly with the rights of an individual under
24 § 10-701, § 10-702, § 10-703, § 10-704, § 10-706, or § 10-707 of this title.

25 (b) **(1)** A person who violates any provision of this section is guilty of a
26 misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment
27 not exceeding 2 years or both.

28 **(2) IF AN OFFICER, AN OPERATOR, OR A DIRECTOR OF A PRIVATE**
29 **INPATIENT FACILITY KNOWINGLY PARTICIPATES IN A VIOLATION OF THIS SECTION,**
30 **THE DEPARTMENT SHALL REVOKE THE LICENSE TO OPERATE THE FACILITY IN**
31 **ACCORDANCE WITH § 10-510 OF THIS TITLE.**

1 15–802.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) “Alcohol misuse” has the meaning stated in § 8–101 of the
4 Health – General Article.

5 (3) “ASAM criteria” means the most recent edition of the American Society
6 of Addiction Medicine treatment criteria for addictive, substance–related, and co–occurring
7 conditions that establishes guidelines for placement, continued stay and transfer or
8 discharge of patients with addiction and co–occurring conditions.

9 (4) “Drug misuse” has the meaning stated in § 8–101 of the
10 Health – General Article.

11 (5) “Grandfathered health plan coverage” has the meaning stated in 45
12 C.F.R. § 147.140.

13 (6) “Health benefit plan” means:

14 (i) for a group or blanket plan, a health benefit plan as defined in §
15 15–1401 of this title;

16 (ii) for an individual plan, a health benefit plan as defined in §
17 15–1301(l) of this title; or

18 (iii) short–term limited duration insurance as defined in § 15–1301(s)
19 of this title.

20 (7) “Managed care system” means a system of cost containment methods
21 that a carrier uses to review and preauthorize a treatment plan developed by a health care
22 provider for a covered individual in order to control utilization, quality, and claims.

23 (8) “Partial hospitalization” means the provision of medically directed
24 intensive or intermediate short–term treatment:

25 (i) to an insured, subscriber, or member;

26 (ii) in a licensed or certified facility or program;

27 (iii) for mental illness, emotional disorders, drug misuse, or alcohol
28 misuse; and

29 (iv) for a period of less than 24 hours but more than 4 hours in a day.

30 (9) “Small employer” has the meaning stated in § 31–101 of this article.

1 (b) With the exception of small employer grandfathered health plan coverage, this
2 section applies to each individual, group, and blanket health benefit plan that is delivered
3 or issued for delivery in the State by an insurer, a nonprofit health service plan, or a health
4 maintenance organization.

5 (c) A health benefit plan subject to this section shall provide at least the following
6 benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug use
7 disorder, or alcohol use disorder:

8 (1) inpatient benefits for services provided in a licensed or certified facility,
9 including hospital inpatient and residential treatment center benefits;

10 (2) partial hospitalization benefits; and

11 (3) outpatient and intensive outpatient benefits, including all office visits,
12 diagnostic evaluation, opioid treatment services, medication evaluation and management,
13 and psychological and neuropsychological testing for diagnostic purposes.

14 (d) (1) The benefits under this section are required only for expenses arising
15 from the treatment of mental illnesses, emotional disorders, drug misuse, or alcohol misuse
16 if, in the professional judgment of health care providers:

17 (i) the mental illness, emotional disorder, drug misuse, or alcohol
18 misuse is treatable; and

19 (ii) the treatment is medically necessary.

20 (2) The benefits required under this section:

21 (i) shall be provided as one set of benefits covering mental illnesses,
22 emotional disorders, drug misuse, and alcohol misuse;

23 (ii) shall comply with 45 C.F.R. § 146.136(a) through (d) and 29
24 C.F.R. § 2590.712(a) through (d);

25 (iii) subject to paragraph (3) of this subsection, may be delivered
26 under a managed care system; [and]

27 (iv) for partial hospitalization under subsection (c)(2) of this section,
28 may not be less than 60 days; AND

29 (V) FOR COUNSELING AND ASSESSMENT FOR SUICIDAL
30 INDIVIDUALS OR INDIVIDUALS WHO HAVE ATTEMPTED SUICIDE AS DESCRIBED IN §
31 10-701(G)(3)(II) OF THE HEALTH - GENERAL ARTICLE, MAY NOT HAVE A
32 COPAYMENT, DEDUCTIBLE, OR COINSURANCE REQUIREMENT APPLIED TO THE

1 **BENEFITS BY AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH**
 2 **MAINTENANCE ORGANIZATION UNDER A HEALTH BENEFIT PLAN.**

3 (3) The benefits required under this section may be delivered under a
 4 managed care system only if the benefits for physical illnesses covered under the health
 5 benefit plan are delivered under a managed care system.

6 (4) The processes, strategies, evidentiary standards, or other factors used
 7 to manage the benefits required under this section must be comparable as written and in
 8 operation to, and applied no more stringently than, the processes, strategies, evidentiary
 9 standards, or other factors used to manage the benefits for physical illnesses covered under
 10 the health benefit plan.

11 (5) An insurer, nonprofit health service plan, or health maintenance
 12 organization shall use the ASAM criteria for all medical necessity and utilization
 13 management determinations for substance use disorder benefits.

14 (e) An entity that issues or delivers a health benefit plan subject to this section
 15 shall provide on its website and annually in print to its insureds or members:

16 (1) notice about the benefits required under this section and the federal
 17 Mental Health Parity and Addiction Equity Act; and

18 (2) notice that the insured or member may contact the Administration for
 19 further information about the benefits.

20 (f) An entity that issues or delivers a health benefit plan subject to this section
 21 shall:

22 (1) post a release of information authorization form on its website; and

23 (2) provide a release of information authorization form by standard mail
 24 within 10 business days after a request for the form is received.

25 **Article – Public Safety**

26 3–201.

27 (a) In this subtitle the following words have the meanings indicated.

28 (b) “Commission” means the Maryland Police Training and Standards
 29 Commission.

30 3–207.

31 **(K) THE COMMISSION SHALL IMPLEMENT STANDARDS FOR POLICE**
 32 **OFFICERS TO ENSURE THAT, WHEN RESPONDING TO AN INCIDENT INVOLVING AN**

1 **INDIVIDUAL SUSPECTED TO BE SUICIDAL:**

2 **(1) THE POLICE OFFICER IS ACCOMPANIED BY AN INDIVIDUAL**
3 **TRAINED IN PROVIDING COUNSELING TO AND ASSESSMENT OF SUICIDAL**
4 **INDIVIDUALS;**

5 **(2) THE POLICE OFFICER AND OTHER RESPONDING POLICE OFFICERS**
6 **DO NOT USE FORCE OR DRAW WEAPONS UNLESS THE INDIVIDUAL SUSPECTED TO BE**
7 **SUICIDAL PRESENTS A CLEAR THREAT TO OTHERS; AND**

8 **(3) THE INDIVIDUAL SUSPECTED TO BE SUICIDAL IS APPROACHED IN**
9 **A GENTLE AND RESPECTFUL MANNER.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That § 15–802 of the Insurance
11 Article, as enacted by Section 1 of this Act, shall apply to all policies, contracts, and health
12 benefit plans issued, delivered, or renewed in the State on or after January 1, 2023.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2022.