

# SENATE BILL 794

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CF HB 1153

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By: **Senators Carozza and Mautz**

Introduced and read first time: February 6, 2023

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Behavioral Health Programs – Residential Programs – Food Service Facility**  
3 **Requirements**

4 FOR the purpose of prohibiting regulations adopted by the Maryland Department of Health  
5 from requiring certain residential programs to comply with certain food service  
6 facility regulations if the residential program has less than a certain number of  
7 residents; and generally relating to food service facility requirements and residential  
8 programs.

9 BY repealing and reenacting, without amendments,  
10 Article – Health – General  
11 Section 7.5–401  
12 Annotated Code of Maryland  
13 (2019 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Health – General  
16 Section 7.5–402  
17 Annotated Code of Maryland  
18 (2019 Replacement Volume and 2022 Supplement)

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

21 **Article – Health – General**

22 7.5–401.

23 (a) Except as otherwise provided in this section, a behavioral health program  
24 shall be licensed by the Secretary before program services may be provided in this State.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) The Secretary may exempt the following persons from the licensure  
2 requirements of this section:

3 (1) A health professional, in either solo or group practice, who is licensed  
4 under the Health Occupations Article and who is providing mental health or  
5 substance-related disorder services according to the requirements of the appropriate  
6 professional board;

7 (2) Alcoholics Anonymous, Narcotics Anonymous, recovery residences,  
8 peer support services, family support services, or other similar organizations, if the  
9 organization holds meetings or provides support services but does not provide any type of  
10 treatment;

11 (3) An employees' assistance program of a business entity;

12 (4) Outpatient behavioral health treatment and rehabilitation services  
13 provided in a regulated space in a hospital, as defined in § 19-301 of this article, if the  
14 services are accredited by an approved accreditation organization under its behavioral  
15 health standards; or

16 (5) A private therapeutic group home as defined in § 10-920 of this article.  
17 7.5-402.

18 (a) Regulations adopted under this subtitle shall include:

19 (1) The requirements for licensure of a behavioral health program,  
20 including a requirement that the behavioral health program:

21 (i) 1. Establish and implement a safety plan for the safety of the  
22 individuals served by the behavioral health program; or

23 2. Implement a safety or emergency plan established for the  
24 program for another purpose; and

25 (ii) Revise the safety plan not less than every 5 years;

26 (2) The process for a behavioral health program to apply for a license;

27 (3) A description of the behavioral health programs that are required to be  
28 licensed;

29 (4) Any requirements for the governance of a behavioral health program,  
30 including:

31 (i) A provision prohibiting a conflict of interest between the  
32 interests of the provider and those of the individual receiving services;

1 (ii) A provision authorizing a behavioral health program licensed as  
2 an outpatient mental health center to satisfy any regulatory requirement that the medical  
3 director be on site through the use of telehealth by the director; and

4 (iii) A provision authorizing a psychiatric nurse practitioner to serve  
5 as a medical director of an outpatient mental health center accredited in accordance with  
6 COMAR 10.63.03.05, including through telehealth;

7 (5) Provisions for inspections of a behavioral health program, including  
8 inspection and copying of the records of a behavioral health program in accordance with  
9 State and federal law; and

10 (6) Provisions for denials, sanctions, suspensions, and revocations of  
11 licenses, including imposition of civil monetary penalties, and notice and an opportunity to  
12 be heard.

13 (b) (1) The Secretary may require a behavioral health program to be granted  
14 accreditation by an accreditation organization approved by the Secretary under Title 19,  
15 Subtitle 23 of this article as a condition of licensure under regulations adopted under this  
16 subtitle.

17 (2) By becoming licensed in accordance with paragraph (1) of this  
18 subsection, a program agrees to comply with all applicable standards of the accreditation  
19 organization.

20 (3) If a behavioral health program is required to be granted accreditation  
21 as a condition of licensure under paragraph (1) of this subsection and the accreditation  
22 organization requires the behavioral health program to adopt a community relations plan,  
23 the behavioral health program shall submit the community relations plan to the  
24 Administration.

25 (c) Regulations adopted under this subtitle may include provisions setting  
26 reasonable fees for applying for a license and for the issuance and renewal of licenses.

27 (d) The Administration may authorize a behavioral health program to satisfy the  
28 safety plan requirement under subsection (a)(1) of this section by implementing a safety  
29 plan established for the behavioral health program for another purpose.

30 **(E) REGULATIONS ADOPTED UNDER THIS SUBTITLE MAY NOT REQUIRE A**  
31 **RESIDENTIAL PROGRAM TO COMPLY WITH FOOD SERVICE FACILITY REGULATIONS**  
32 **UNDER COMAR 10.15.03 IF THE RESIDENTIAL PROGRAM HAS FEWER THAN 17**  
33 **RESIDENTS AND IS LICENSED UNDER:**

34 **(1) COMAR 10.63.03.11;**

1           **(2) COMAR 10.63.03.12;**

2           **(3) COMAR 10.63.03.13; OR**

3           **(4) COMAR 10.63.03.14.**

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
5 1, 2023.