

Chapter 343

(Senate Bill 794)

AN ACT concerning

Behavioral Health Programs – Residential Programs – Food Service Facility Requirements

FOR the purpose of ~~prohibiting regulations adopted by~~ requiring the Maryland Department of Health ~~from requiring certain residential programs to comply with~~ to adopt regulations that establish certain food service facility ~~regulations if the standards for certain residential program has~~ programs that have less than a certain number of residents; and generally relating to food service facility requirements and residential programs.

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

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

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

Article – Health – General

7.5–401.

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

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

(1) A health professional, in either solo or group practice, who is licensed under the Health Occupations Article and 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, if the organization holds meetings or provides support services but does not provide any type of treatment;

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

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

(5) A private therapeutic group home as defined in § 10–920 of this article.

7.5–402.

(a) Regulations adopted under this subtitle shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) ~~REGULATIONS ADOPTED~~ THE DEPARTMENT SHALL ADOPT REGULATIONS UNDER THIS SUBTITLE MAY NOT REQUIRE A RESIDENTIAL PROGRAM TO COMPLY WITH THAT ESTABLISH FOOD SERVICE FACILITY REGULATIONS UNDER COMAR 10.15.03 IF THE STANDARDS THAT ARE APPROPRIATE TO RESIDENTIAL PROGRAMS THAT HAVE FEWER THAN 17 RESIDENTS AND IS ARE LICENSED UNDER:

- (1) COMAR 10.63.03.11;**
- (2) COMAR 10.63.03.12;**
- (3) COMAR 10.63.03.13; OR**

(4) COMAR 10.63.03.14.

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

Approved by the Governor, May 3, 2023.