

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 944
Finance

(Senator Eckardt)

Behavioral Health Programs - Medical Directors - Psychiatric Nurse Practitioners

This bill requires regulations governing behavioral health programs to include a provision authorizing a psychiatric nurse practitioner to serve as a medical director of a behavioral health program, including through the use of telehealth, if (1) the program is located in a federally designated health professional shortage area (HPSA) or (2) the medical director abandoned the program and the program has no psychiatrist to serve as medical director.

Fiscal Summary

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

Local Effect: The bill is not anticipated 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. An “opioid treatment service” is one that is under the direction of a medical director who is a physician with specified experience and qualifications.

Under federal regulations (42 CFR § 8.2) the medical director of an opioid treatment program is required to be a physician licensed to practice medicine in the jurisdiction in which the opioid treatment program is located.

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. However, the Maryland Department of Health advises that the Behavioral Health Administration already has a variance process in place for behavioral health programs, with the exception of opioid treatment programs, to allow a psychiatric nurse practitioner to *temporarily* serve as a medical director if the program is located in a federally designated HPSA or if a medical director has abandoned their position.

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

59 mental health HPSAs in Maryland, including certain correctional facilities, comprehensive health centers, census tracts, and populations.

Small Business Effect: Small business behavioral health programs in federally designated HPSAs or whose medical director has abandoned the program and no replacement has been located may be able to more easily recruit and retain medical directors as the available recruitment pool is expanded to include psychiatric nurse practitioners, including through the use of telehealth.

Additional Comments: This analysis assumes that the bill does not apply to opioid treatment programs, which must comply with federal regulations requiring that a medical director be a licensed physician.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Health; U.S. Department of Health and Human Services' Health Resources and Services Administration; National Council Medical Director Institute; Department of Legislative Services

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