



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Office of Health Care Quality

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55 Wade Avenue • Catonsville, Maryland 21228-4663

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

TRANSMITTAL

TO: All Community Mental Health Programs

FROM: Nancy Grimm, Director *NBB*
Office of Health Care Quality

DATE: December 3, 2010

SUBJECT: Eligibility to Receive State Funds/Governing Body Requirements of State Law

Periodically, it is everyone's best interest to review the foundation for funding eligibility. For those who participate as a provider in the community mental health system it is imperative that your business governance structure be reviewed for compliance with the provisions of Health General Article 10-901 and the Code of Maryland Regulations, 10.21.17.05. Non-compliance with the provisions of these laws may result in an inability to continue payment for services, retraction of monies already paid and/or imposition of penalties.

The law is applicable to non-profit organizations and private community based organizations who seek reimbursement for services through the public mental health system. The governance provisions focus on the role employee family members may take within the governance structure of the business and limit their role to that of a non-voting member. The law also prevents those who have served on the board of an organization whose license was revoked by the Department from serving as a governing body member of an organization for a period of ten years.

A copy of the state law is enclosed for your reference. Should you have questions regarding your particular governance structure please seek advice from your counsel. You may also make inquiry to Mr. William Dorrill in the Office of Health Care Quality at 410-402-8047.

Your cooperation is appreciated.

Encl: HG010-901

Health-General Article
Title 10 Mental Hygiene Law
Downloaded December 8, 2010

§ 10-901. Duties of Secretary.

(a) *Rules and regulations.*-

(1) The Secretary shall adopt rules and regulations that set standards for:

- (i) Eligibility for State funding of local mental health programs under Part I of this subtitle;
- (ii) Qualifications of staff and quality of professional services of eligible programs;
- (iii) Eligibility for receiving services under eligible programs; and
- (iv) Accreditation of a facility as defined in § 10-101(e) of this title.

(2) The Secretary may consider accreditation by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Commission on Accreditation of Rehabilitation Facilities (CARF), whichever is appropriate, as meeting the rules and regulations adopted under this subtitle.

(3) The rules and regulations shall ensure:

- (i) That an individual is not discriminated against based on an inability to pay for services; and
- (ii) That an individual is not discriminated against or denied community-based mental health services based on the individual's lack of a fixed address or because the individual is homeless.

(4) The rules and regulations shall require that, prior to approval for receipt of State funding under Part I of this subtitle, a nonprofit organization or private community-based organization shall submit the following to the Department:

- (i) A written list of the names of the members of the board of directors and corporate officers of the organization;
- (ii) A business plan that clearly demonstrates the ability of the organization to provide services in accordance with Maryland regulations and funding requirements;
- (iii) A summary of the organization's demonstrated experience in the field of mental health, in accordance with standards developed by the Department;
- (iv) Prior licensing reports issued within the previous 10 years from any in-State or out-of-state entities associated with the organization, including deficiency reports and compliance records on which the State may make reasoned decisions about the qualifications of the organization; and
- (v) A written quality assurance plan, approved by the Mental Hygiene Administration, to address how the organization will ensure the health and safety of the individuals served by the organization and the quality of services provided to individuals by the organization.

(5) In order for a nonprofit organization or private community-based organization to be eligible

to receive funds under Part I of this subtitle:

(i) An immediate family member of an employee of an organization may not serve as a voting member of the governing body of the organization; and

(ii) A member of the governing body of the organization may not have served as a member of a governing body of an organization that has had a license revoked by the Department within the previous 10 years.

(6) Before determining that a nonprofit organization or private community-based organization is eligible to receive funds under Part I of this subtitle, the Department shall perform an on-site investigation of the organization.

(b) *Additional duties.*- The Secretary shall:

(1) Through the regional mental health director, provide a county with consultative staff services to help ascertain local needs and plan and establish local mental health programs;

(2) Review and evaluate local programs and personnel practices;

(3) Make recommendations to the governing body, health officer of a county, and the director of the Montgomery County Department of Health and Human Services on the local program and personnel practices;

(4) Review and either approve or disapprove the plans and budgets that a county governing body submits for State funding under Part I of this subtitle; and

(5) Exercise any other power or duty required to carry out Part I of this subtitle.

[An. Code 1957, art. 43, § 1J; 1982, ch. 21, § 2; 1983, ch. 583, § 2; 1987, ch. 576; 1993, ch. 187; 1996, ch. 476; 2005, ch. 339.]