

HOUSE BILL 774

J3, J1

8lr1927

By: **Delegates Robinson, Conaway, Glenn, Stukes, Tarrant, Taylor, and V. Turner**

Introduced and read first time: February 4, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Establishment of the Provider Advocacy Group for Providers of Services to**
3 **Individuals with Developmental Disabilities**

4 FOR the purpose of establishing the Provider Advocacy Group; establishing that the
5 purpose of the Provider Advocacy Group is to assist certain licensees who
6 provide services to individuals with developmental disabilities and have been
7 cited for certain deficiencies before certain hearings are held; providing for the
8 composition, qualifications, election, terms, and reimbursement of certain
9 members of the Provider Advocacy Group; establishing certain staff and quorum
10 requirements; specifying the duties of the Provider Advocacy Group; requiring
11 that the Developmental Disability Administration bring certain deficiencies to
12 the attention of the Provider Advocacy Group; requiring that the
13 Administration seek the input of the Provider Advocacy Group in developing
14 certain regulations including regulations on the role of the Provider Advocacy
15 Group; requiring the Administration to allow the Provider Advocacy Group to
16 perform certain duties before a certain hearing to suspend or revoke a license;
17 and generally relating to the Provider Advocacy Group.

18 BY repealing and reenacting, with amendments,
19 Article – Health – General
20 Section 7–909 and 7–910
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2007 Supplement)

23 BY adding to
24 Article – Health – General
25 Section 7–910
26 Annotated Code of Maryland
27 (2005 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article - Health - General**

4 7-909.

5 (a) In this section, the word "licensee" means a person who is licensed by the
6 Administration under this title to provide services.

7 (b) The Administration or its agent shall inspect each site or office operated
8 by a licensee at least once annually and at any other time that the Administration
9 considers necessary.

10 (c) The Administration shall keep a report of each inspection.

11 (d) The Administration shall bring any deficiencies to the attention of:

12 (1) The executive officer of the licensee; [or]

13 (2) In the case of an intermediate care facility-mental retardation, the
14 State Planning Council and the State-designated protection and advocacy agency;
15 **AND**

16 **(3) THE PROVIDER ADVOCACY GROUP.**

17 (e) (1) The Administration, in conjunction with the Office of Health Care
18 Quality, shall adopt regulations that establish a system of prioritization to respond to
19 and investigate serious reportable incidents, as defined by the Administration, in the
20 areas of abuse, neglect, serious injury, and medication errors that threaten the health,
21 safety, and well-being of individuals receiving services funded by the Administration
22 in State-operated and community programs licensed by the Administration.

23 (2) The Administration shall seek input from individuals with
24 disabilities and their families, licensees, and advocacy organizations **AND THE**
25 **PROVIDER ADVOCACY GROUP** in developing the regulations, prior to publishing the
26 regulations in the Maryland Register for public comment.

27 (3) The regulations shall define and address:

28 (i) The procedures and timelines that providers must follow
29 when reporting serious reportable incidents and deaths to the Administration and the
30 Office of Health Care Quality;

31 (ii) The Department's protocol to determine the necessity to
32 investigate a serious reportable incident that takes into account:

- 1 1. The severity of the incident;
- 2 2. The quality of the licensee’s internal investigation;
- 3 and
- 4 3. The number and frequency of serious reportable
- 5 incidents reported by the licensee to the Department;
- 6 (iii) The specific roles and responsibilities of each governmental
- 7 unit involved in any follow-up investigations that may occur due to a licensee’s report
- 8 of a serious reportable incident or death;
- 9 (iv) Methods of investigations, including on-site investigations;
- 10 (v) Time lines for response to serious reportable incidents and
- 11 deaths and investigation of serious reportable incidents and deaths;
- 12 (vi) Time lines for issuing specified reports, including corrective
- 13 action plans, to the Administration, licensee, Mortality and Quality Review
- 14 Committee, Medicaid Fraud Unit, individuals receiving services from the licensee
- 15 involved in the incident and their guardians or family members, and others; [and]

(VII) THE ROLE OF THE PROVIDER ADVOCACY GROUP; AND

17 [(vii)] **(VIII) Follow-up protocols for the Office of Health Care**
 18 **Quality and the Administration to ensure that corrective action has been implemented**
 19 **by the licensee.**

7-910.

21 **(A) IN THIS SECTION, “LICENSEE” MEANS A PERSON WHO IS LICENSED**
 22 **BY THE ADMINISTRATION UNDER THIS TITLE TO PROVIDE SERVICES.**

23 **(B) THERE IS A PROVIDER ADVOCACY GROUP.**

24 **(C) THE PURPOSE OF THE PROVIDER ADVOCACY GROUP IS TO ASSIST A**
 25 **LICENSEE WHO HAS BEEN CITED FOR A DEFICIENCY BEFORE THE**
 26 **ADMINISTRATION HOLDS A HEARING TO SUSPEND OR REVOKE THE LICENSEE’S**
 27 **LICENSE.**

28 **(D) THE PROVIDER ADVOCACY GROUP SHALL CONSIST OF THE**
 29 **FOLLOWING SEVEN MEMBERS:**

30 **(1) ONE LICENSED PROVIDER OF DAY HABILITATION SERVICES;**

31 **(2) ONE LICENSED PROVIDER OF RESIDENTIAL SERVICES;**

- 1 **(3) ONE LICENSED SERVICES COORDINATOR;**
- 2 **(4) ONE LICENSED PROVIDER OF VOCATIONAL SERVICES;**
- 3 **(5) ONE LICENSED PROVIDER OF MORE THAN ONE FAMILY**
4 **SUPPORT SERVICE, AS DEFINED UNDER § 7-701 OF THIS TITLE;**
- 5 **(6) ONE LICENSED PROVIDER OF MORE THAN ONE INDIVIDUAL**
6 **SUPPORT SERVICE; AND**
- 7 **(7) ONE LICENSED PROVIDER OF MORE THAN ONE COMMUNITY**
8 **SUPPORTED LIVING ARRANGEMENTS SERVICE.**

9 **(E) EACH MEMBER SHALL:**

10 **(1) HAVE BEEN A LICENSEE FOR AT LEAST 1 YEAR BEFORE**
11 **BECOMING A MEMBER; AND**

12 **(2) BE FAMILIAR WITH THE ADMINISTRATION AND ITS**
13 **REGULATIONS.**

14 **(F) (1) EACH MEMBER SHALL BE ELECTED BY A VOTE OF ALL**
15 **LICENSEES.**

16 **(2) (I) THE DEPARTMENT SHALL NOTIFY ALL LICENSEES OF**
17 **AN UPCOMING ELECTION AT LEAST 2 MONTHS BEFORE THE DAY THE ELECTION**
18 **BALLOTS WILL BE SENT TO LICENSEES.**

19 **(II) THE NOTICE SHALL INCLUDE THE DAY THE ELECTION**
20 **BALLOTS WILL BE SENT.**

21 **(3) LICENSEES INTERESTED IN BECOMING MEMBERS SHALL**
22 **SUBMIT THEIR QUALIFICATIONS TO THE DEPARTMENT AT LEAST 1 MONTH**
23 **BEFORE THE DAY THE ELECTION BALLOTS WILL BE SENT TO LICENSEES IN THE**
24 **FORM REQUIRED BY THE DEPARTMENT.**

25 **(4) THE DEPARTMENT SHALL SEND OUT THE ELECTION BALLOTS**
26 **AND THE CANDIDATE QUALIFICATIONS ON THE DATE INCLUDED IN THE NOTICE**
27 **UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.**

28 **(5) THE DEPARTMENT SHALL PROVIDE LICENSEES WITH A**
29 **REASONABLE TIME TO RETURN THE ELECTION BALLOTS AFTER THE DAY THE**
30 **BALLOTS ARE SENT.**

1 **(G) (1) THE TERM OF A MEMBER IS 4 YEARS.**

2 **(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED**
3 **BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2008.**

4 **(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE**
5 **UNTIL A SUCCESSOR IS ELECTED.**

6 **(4) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE**
7 **FULL TERMS.**

8 **(H) (1) FROM AMONG ITS MEMBERS, THE PROVIDER ADVOCACY**
9 **GROUP ANNUALLY SHALL ELECT OFFICERS.**

10 **(2) THE PROVIDER ADVOCACY GROUP SHALL DETERMINE:**

11 **(I) THE MANNER OF ELECTION OF OFFICERS; AND**

12 **(II) THE DUTIES OF EACH OFFICER.**

13 **(I) (1) A MAJORITY OF THE MEMBERS THEN SERVING ON THE**
14 **PROVIDER ADVOCACY GROUP IS A QUORUM.**

15 **(2) THE PROVIDER ADVOCACY GROUP SHALL DETERMINE THE**
16 **TIMES AND PLACES OF ITS MEETINGS.**

17 **(3) A MEMBER OF THE PROVIDER ADVOCACY GROUP:**

18 **(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF**
19 **THE PROVIDER ADVOCACY GROUP; BUT**

20 **(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES**
21 **UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE**
22 **STATE BUDGET.**

23 **(4) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE**
24 **PROVIDER ADVOCACY GROUP.**

25 **(J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
26 **SUBSECTION, BEFORE A HEARING FOR SUSPENSION OR REVOCATION OF A**
27 **LICENSE UNDER § 7-911(D) OF THIS SUBTITLE, THE PROVIDER ADVOCACY**
28 **GROUP SHALL:**

1 (I) REVIEW EACH DEFICIENCY CITED AGAINST A LICENSEE;
2 AND

3 (II) ASSIST THE LICENSEE IN DEVELOPING AND
4 IMPLEMENTING A CORRECTIVE ACTION PLAN.

5 (2) A HEARING FOR SUSPENSION OR REVOCATION OF A LICENSE
6 UNDER § 7-911(D) OF THIS SUBTITLE SHALL BE CONDUCTED IF THE PROVIDER
7 ADVOCACY GROUP DETERMINES THAT:

8 (I) THE DEFICIENCY IS LIFE THREATENING TO CONSUMERS
9 AND STAFF;

10 (II) THE DEFICIENCY PRESENTS A SAFETY ISSUE THAT
11 CANNOT BE CORRECTED;

12 (III) THE LICENSEE IS NOT RECEPTIVE TO THE ASSISTANCE
13 OFFERED BY THE PROVIDER ADVOCACY GROUP; OR

14 (IV) THE ASSISTANCE PROVIDED BY THE PROVIDER
15 ADVOCACY GROUP IS UNABLE TO RESOLVE THE DEFICIENCY.

16 (3) THE PROVIDER ADVOCACY GROUP SHALL ESTABLISH
17 GUIDELINES FOR RECRUITING LICENSEES TO VOLUNTEER THEIR EXPERTISE IN
18 ASSISTING THE GROUP TO CARRY OUT ITS DUTIES UNDER THIS SUBSECTION.

19 [7-910.] 7-911.

20 (a) The Administration shall deny a license to any applicant or suspend or
21 revoke a license if the applicant or licensee fails to comply with the applicable laws,
22 rules, or regulations of this State.

23 (b) Any applicant or licensee who knowingly and willfully makes a false
24 statement in connection with an application under this subtitle shall be guilty of a
25 misdemeanor and upon conviction shall be subject to a fine not to exceed \$1,000, or
26 imprisonment not exceeding 1 year, or both.

27 (c) The Administration may impose a penalty not exceeding \$500 per day per
28 violation for each day a violation occurs on a licensee that fails to comply with the
29 reporting requirements established under § 7-306.1 (1) of this title.

30 (d) Except as otherwise provided in § 10-226 of the State Government
31 Article, before the Administration takes any action under this section, the
32 Administration shall:

1 **(1) FOR ACTIONS TO SUSPEND OR REVOKE A LICENSE, ALLOW**
2 **THE PROVIDER ADVOCACY GROUP TO PERFORM ITS DUTIES IN ACCORDANCE**
3 **WITH § 7-910 OF THIS SUBTITLE; AND**

4 **(2) FOR ACTIONS TO DENY, SUSPEND, OR REVOKE A LICENSE,**
5 give the applicant or licensee notice and an opportunity for a hearing.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
7 members of the Provider Advocacy Group shall expire as follows:

- 8 (1) two members in 2009;
- 9 (2) two members in 2010; and
- 10 (3) three members in 2011.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2008.