



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: Licensees of the Developmental Disabilities Administration

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

Michael Chapman *[Signature]*  
Executive Director of Development Disabilities Administration

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 receive payment for services through the Developmental Disabilities Administration (Administration), it is imperative that your business governance structure be reviewed for compliance with the provisions of Health General Article 7-904 and the Code of Maryland Regulations, 10.22.02. 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 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. Exceptions are given in instances where the employee receives services from the licensee or when the Administration explicitly approves the governing body membership as a component of an innovative program service plan. Regulation also prevents those who have served on the board of an organization whose license was revoked by the Department from serving as a governing body member of any organization for a period of ten years.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 contact Mr. William Dorrill in the Office of Health Care Quality at 410-402-8047.

Your cooperation is appreciated.

Encl: HG 7-904

§ 7-904

ANNOTATED CODE OF MARYLAND

- (6) More than 1 individual support service; and
  - (7) More than 1 community supported living arrangements service.
- (b) *Waiver.* — (1) If a person is licensed or certified by another State agency or accredited by a national accreditation agency such as the Accreditation Council for Persons with Developmental Disabilities (ACDD) or the Council for Accreditation for Rehabilitation Facilities (CARF) to provide services to an individual with a developmental disability or a recipient of individual support services, the Director may waive the requirement for a license by the Administration.
- (2) Upon a showing by the Director that the licensed, certified, or accredited person is out of compliance with licensing regulations adopted by the Secretary the Director may revoke the waiver. (1986, ch. 636, § 2; ch. 637, § 2; 1987, ch. 11, § 1; 1989, ch. 473; 1991, ch. 615.)

§ 7-904. Rules and regulations.

- (a) *Adoption.* — The Secretary shall adopt rules and regulations for the licensing of services for an individual with developmental disability or a recipient of individual support services.
- (b) *Purpose.* — The rules and regulations shall ensure that services to an individual with developmental disability or a recipient of individual support services are provided in accordance with the policy stated in Subtitle 1 of this title.
- (c) *Requirements; waiver.* — (1) The rules and regulations shall require that:
- (i) At least 75% of the governing body of a licensee shall be residents of the State or reside within a 100-mile radius of the administrative offices of the licensee, which shall be located in the State; and
  - (ii) No employee of a licensee or immediate family member of an employee of a licensee may serve as a voting member of the governing body of a licensee unless:
    1. The employee receives services from the licensee; or
    2. The Administration explicitly approves the composition of the governing body through an innovative program service plan in accordance with COMAR 10.22.02.09.F.
- (2) The requirements of paragraph (1)(i) of this subsection may be waived if a community-based advisory board or committee is established by the licensee and approved by the Department.
- (d) *Requirements for applicant for license.* — The rules and regulations shall also require that an applicant for a license under this section shall demonstrate to the Department the applicant's capability to provide for or arrange for the provision of all applicable services required by this chapter by submitting, at a minimum, the following documents to the Department:
- (1) A business plan that clearly demonstrates the ability of the applicant to provide services in accordance with Maryland regulations and funding requirements;
  - (2) A summary of the applicant's demonstrated experience in the field of developmental disabilities, in accordance with standards developed by the Department;