

Chapter 263

(House Bill 121)

AN ACT concerning

**Mental Health – Treatment Plans for Individuals in Facilities – ~~Requirements~~
and Resident Grievance System**

FOR the purpose of requiring that a plan of treatment for an individual with a mental disorder admitted to a certain health care facility include a certain discharge goal and an estimate of the probable length of inpatient stay the individual requires before transfer to a certain setting; requiring certain facility staff to review and reassess a plan of treatment within certain time periods; establishing certain rights and requirements relating to the participation of certain family members and other individuals in the development, review, and reassessment of a plan of treatment; establishing an appeals process for individuals admitted to a State facility relating to the review and reassessment of a plan of treatment; requiring the Maryland Department of Health to adopt certain regulations relating to the appeals process; requiring a ~~certain~~ State health care facility to take certain actions if the facility is unable to address certain needs under a plan of treatment; requiring the Department to report certain information related to the Resident Grievance System to the General Assembly on or before a certain date each year; and generally relating to ~~treatment plans for individuals with mental disorders admitted to~~ mental health care facilities.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–706
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

BY adding to
Article – Health – General
Section 10–908 to be under the new part “Part II. Resident Grievance System Report”
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

10–706.

(a) (1) Except as provided by paragraph (2) of this subsection, promptly after admission of an individual, a facility shall make and periodically update a written plan of

treatment for the individual in the facility, in accordance with the provisions of this subtitle.

(2) Promptly after admission of an individual to a psychosocial center, the center shall make and periodically update a written plan of rehabilitation for the individual in the facility, in accordance with the provisions of this subtitle.

(b) The Director shall adopt rules and regulations under this section that include:

(1) **[A] SUBJECT TO SUBSECTION (D) OF THIS SECTION,** A description of the nature and content of plans of treatment; and

(2) **[Appropriate] SUBJECT TO SUBSECTION (E) OF THIS SECTION,** **APPROPRIATE** time periods for the development, implementation, and review of each plan.

(c) An individual shall:

(1) Participate, in a manner appropriate to the individual's condition, in the development and periodic updating of the plan of treatment; and

(2) Be told, in appropriate terms and language, of:

(i) The content and objectives of the plan of treatment;

(ii) The nature and significant possible adverse effects of recommended treatments;

(iii) The name, title, and role of personnel directly responsible for carrying out the treatment for the individual; and

(iv) When appropriate, other available alternative treatments, services, or providers of mental health services.

(D) A PLAN OF TREATMENT SHALL INCLUDE:

(1) A LONG-RANGE DISCHARGE GOAL; AND

(2) AN ESTIMATE OF THE PROBABLE LENGTH OF INPATIENT STAY THE INDIVIDUAL REQUIRES BEFORE TRANSFER TO A LESS RESTRICTIVE OR INTENSIVE TREATMENT SETTING.

(E) FACILITY STAFF WHO WORK DIRECTLY WITH AND PROVIDE TREATMENT TO AN INDIVIDUAL SHALL REVIEW AND REASSESS THE PLAN OF TREATMENT FOR THE INDIVIDUAL TO DETERMINE THE INDIVIDUAL'S PROGRESS AND ANY NEED FOR ADJUSTMENTS TO THE PLAN NOT LESS THAN:

(1) ONCE EVERY 15 DAYS FOR THE FIRST 2 MONTHS AFTER ADMISSION OF THE INDIVIDUAL TO THE FACILITY; AND

(2) ONCE EVERY 60 DAYS FOR THE REMAINDER OF THE INPATIENT STAY OF THE INDIVIDUAL IN THE FACILITY.

(F) (1) ON THE ADMISSION OF AN INDIVIDUAL TO A FACILITY ~~AND AT EACH REVIEW AND REASSESSMENT OF THE INDIVIDUAL'S PLAN OF TREATMENT,~~ THE FACILITY SHALL ~~ASK:~~

(I) ASK THE INDIVIDUAL WHETHER THE INDIVIDUAL CONSENTS TO THE INCLUSION OF FAMILY MEMBERS OR ANY OTHER INDIVIDUALS IN BEING INFORMED OF AND GIVEN THE OPPORTUNITY TO PARTICIPATE IN MEETINGS WITH THE TREATMENT TEAM REGARDING THE DEVELOPMENT, REVIEW, AND REASSESSMENT OF THE PLAN OF TREATMENT OF THE INDIVIDUAL; AND

(II) IF CONSENT IS GIVEN UNDER ITEM (I) OF THIS PARAGRAPH, AT LEAST EVERY 7 DAYS AFTER CONSENT IS GIVEN, RECONFIRM THE CONSENT AND PROVIDE THE INDIVIDUAL AT A CLINICAL VISIT WITH AN OPPORTUNITY TO CONSENT TO ADDITIONAL INDIVIDUALS BEING INFORMED OF AND GIVEN THE OPPORTUNITY TO PARTICIPATE IN MEETINGS WITH THE TREATMENT TEAM.

(2) IF AN INDIVIDUAL AGREES TO HAVE FAMILY MEMBERS OR OTHER INDIVIDUALS PARTICIPATE IN THE DEVELOPMENT, REVIEW, AND REASSESSMENT OF THE INDIVIDUAL'S PLAN OF TREATMENT, THE FACILITY SHALL:

(I) ~~INCLUDE THE FAMILY MEMBERS AND OTHER INDIVIDUALS AUTHORIZED BY THE INDIVIDUAL IN:~~

~~1. EACH STAGE OF THE DEVELOPMENT OF THE PLAN OF TREATMENT;~~

~~2. ANY REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT; AND~~

~~3. ANY MEETING OF FACILITY STAFF THAT HAS A PURPOSE OF DEVELOPING, REVIEWING, OR REASSESSING THE PLAN OF TREATMENT; AND~~ PROVIDE A SCHEDULE OF ROUTINE TREATMENT TEAM MEETINGS WHERE THE PLAN OF TREATMENT IS DISCUSSED;

(II) ~~PROVIDE NOTICE TO THE FAMILY MEMBERS AND OTHER INDIVIDUALS OF A TREATMENT TEAM MEETING;~~

~~1. AT LEAST 7 DAYS IN ADVANCE OF THE MEETING; OR~~

~~2. IF THE TREATMENT TEAM MEETING IS BEING HELD DUE TO AN EMERGENCY, AS SOON AS THE MEETING IS SCHEDULED~~ ESTABLISH A PROCESS FOR THE AUTHORIZED INDIVIDUALS TO PARTICIPATE IN TREATMENT TEAM MEETINGS;

(III) IF THE TREATMENT TEAM MEETING IS BEING HELD OUTSIDE THE REGULAR SCHEDULE, INFORM THE AUTHORIZED INDIVIDUALS AS SOON AS THE MEETING IS SCHEDULED; AND

(IV) IF THE TREATMENT TEAM MEETING IS BEING HELD DUE TO AN EMERGENCY, INFORM THE AUTHORIZED INDIVIDUALS OF THE OUTCOME OF THE MEETING AS SOON AS PRACTICABLE.

(3) THE INDIVIDUAL MAY WITHDRAW THE CONSENT GIVEN UNDER PARAGRAPH (1) OF THIS SUBSECTION AT ANY TIME ORALLY OR IN WRITING.

(4) A TREATING PROVIDER MAY WITHHOLD INFORMATION ON AN INDIVIDUAL PLAN OF TREATMENT FROM A FAMILY MEMBER OR OTHER AUTHORIZED INDIVIDUAL IF:

(I) IN THE TREATING PROVIDER'S CLINICAL JUDGMENT, THE CONSENT GIVEN UNDER PARAGRAPH (1) OF THIS SUBSECTION WAS PROVIDED THROUGH COERCIVE MEANS;

(II) THE TREATING PROVIDER BELIEVES IT IS IN THE BEST CLINICAL INTEREST OF THE INDIVIDUAL; OR

(III) THE INDIVIDUAL REQUESTS THAT A SPECIFIC PIECE OF THE PLAN OF TREATMENT BE WITHHELD.

(G) (1) IF AN INDIVIDUAL ADMITTED TO A FACILITY OR ANY FAMILY MEMBER OR OTHER INDIVIDUAL AUTHORIZED BY THE INDIVIDUAL TO PARTICIPATE IN THE REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT FOR THE INDIVIDUAL UNDER SUBSECTION (F) OF THIS SECTION BELIEVES THAT THE PLAN OF TREATMENT IS NOT MEETING THE NEEDS OF THE INDIVIDUAL, THE INDIVIDUAL, FAMILY MEMBER, OR OTHER AUTHORIZED INDIVIDUAL HAS THE RIGHT TO REQUEST THAT THE FACILITY REVIEW AND REASSESS THE PLAN OF TREATMENT.

(2) ON RECEIPT OF A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE FACILITY STAFF WHO WORK DIRECTLY WITH AND PROVIDE TREATMENT TO THE INDIVIDUAL SHALL ~~CONDUCT~~:

(I) CONDUCT A REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT THAT INCLUDES A WRITTEN EXPLANATION OF HOW ALL ISSUES RAISED IN THE REQUEST WERE CONSIDERED IN THE REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT;

(II) COMMUNICATE THE RESULTS OF THE REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT TO THE PATIENT AND INDIVIDUAL WHO REQUESTED THE REVIEW AND REASSESSMENT, INCLUDING AN EXPLANATION OF HOW ALL ISSUES RAISED IN THE REQUEST WERE CONSIDERED; AND

(III) INCLUDE THE REQUEST FOR THE REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT AND THE OUTCOME OF THE REVIEW AND ASSESSMENT, INCLUDING THE EXPLANATION OF THE OUTCOME, IN THE MEDICAL RECORDS OF THE INDIVIDUAL.

~~(3) IF THE FACILITY DOES NOT MAKE ANY CHANGES TO THE PLAN OF TREATMENT FOR THE INDIVIDUAL, THE FACILITY SHALL:~~

~~(i) PROVIDE A DETAILED WRITTEN EXPLANATION FOR THE DECISION TO THE INDIVIDUAL AND ANY FAMILY MEMBER AND INDIVIDUAL AUTHORIZED BY THE INDIVIDUAL TO PARTICIPATE IN THE REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT; AND~~

~~(ii) INCLUDE THE EXPLANATION IN THE MEDICAL RECORDS OF THE INDIVIDUAL. IF A STATE FACILITY DOES NOT MAKE ANY CHANGES TO THE PLAN OF TREATMENT FOR THE INDIVIDUAL, THE STATE FACILITY SHALL PROVIDE REFERRAL INFORMATION FOR THE RESIDENT GRIEVANCE SYSTEM ESTABLISHED UNDER COMAR 10.21.14.~~

~~(H) (1) AN INDIVIDUAL ADMITTED TO A STATE FACILITY MAY REQUEST AN ADMINISTRATIVE HEARING FOR A RECONSIDERATION OF THE REVIEW AND REASSESSMENT COMPLETED UNDER SUBSECTION (C) OF THIS SECTION BY FILING A REQUEST FOR HEARING WITH THE CHIEF EXECUTIVE OFFICER OF THE STATE FACILITY OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE WITHIN 7 DAYS AFTER RECEIPT OF THE WRITTEN EXPLANATION OF THE REVIEW AND REASSESSMENT.~~

~~(2) WITHIN 72 HOURS AFTER RECEIPT OF A REQUEST FOR A HEARING, THE CHIEF EXECUTIVE OFFICER OF THE STATE FACILITY OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE SHALL FORWARD THE REQUEST TO THE OFFICE OF ADMINISTRATIVE HEARINGS.~~

~~(3) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT A HEARING AND ISSUE A DECISION~~

~~WITHIN 15 CALENDAR DAYS AFTER THE RECEIPT OF THE REQUEST FORWARDED UNDER PARAGRAPH (2) OF THIS SUBSECTION.~~

~~(4) THE INDIVIDUAL ADMITTED TO A STATE FACILITY IS ENTITLED TO BE REPRESENTED BY COUNSEL AT THE ADMINISTRATIVE HEARING.~~

~~(5) THE ADMINISTRATIVE HEARING MAY BE POSTPONED BY AGREEMENT OF THE PARTIES OR FOR GOOD CAUSE SHOWN.~~

~~(6) THE ADMINISTRATIVE LAW JUDGE SHALL CONDUCT A DE NOVO HEARING TO DETERMINE WHETHER THE PLAN OF TREATMENT IS MEETING THE NEEDS OF THE INDIVIDUAL.~~

~~(7) AT THE HEARING, THE INDIVIDUAL REPRESENTING THE STATE FACILITY:~~

~~(I) MAY INTRODUCE THE WRITTEN EXPLANATION RELATING TO THE PLAN OF TREATMENT AS EVIDENCE; AND~~

~~(II) SHALL PROVE, BY CLEAR AND CONVINCING EVIDENCE, THAT THE PLAN OF TREATMENT IS MEETING THE NEEDS OF THE INDIVIDUAL.~~

~~(8) (I) THE ADMINISTRATIVE LAW JUDGE SHALL STATE ON THE RECORD THE FINDINGS OF FACT AND CONCLUSIONS OF LAW.~~

~~(II) THE ADMINISTRATIVE LAW JUDGE SHALL DETERMINE THAT:~~

~~1. BY CLEAR AND CONVINCING EVIDENCE, THE PLAN OF TREATMENT IS MEETING THE NEEDS OF THE INDIVIDUAL; OR~~

~~2. THE PLAN OF TREATMENT IS NOT MEETING THE NEEDS OF THE INDIVIDUAL.~~

~~(III) IF THE ADMINISTRATIVE LAW JUDGE DETERMINES THAT THE PLAN OF TREATMENT IS NOT MEETING THE NEEDS OF THE INDIVIDUAL, THE ADMINISTRATIVE LAW JUDGE SHALL ORDER THE STATE FACILITY TO MAKE ARRANGEMENTS FOR THE INDIVIDUAL TO RECEIVE NECESSARY TREATMENT, WHICH MAY INCLUDE TREATMENT FROM ANOTHER FACILITY OR ANOTHER HEALTH CARE PROVIDER OUTSIDE THE STATE FACILITY.~~

~~(9) THE DETERMINATION OF THE ADMINISTRATIVE LAW JUDGE IS A FINAL DECISION FOR THE PURPOSE OF JUDICIAL REVIEW OF A FINAL DECISION UNDER THE ADMINISTRATIVE PROCEDURE ACT.~~

~~(i) (1) WITHIN 14 CALENDAR DAYS AFTER THE ADMINISTRATIVE LAW JUDGE ISSUES A DECISION UNDER SUBSECTION (H) OF THIS SECTION, THE INDIVIDUAL OR THE STATE FACILITY MAY APPEAL THE DECISION TO THE CIRCUIT COURT ON THE RECORD FROM THE HEARING CONDUCTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS.~~

~~(2) THE SCOPE OF REVIEW SHALL BE AS A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURE ACT.~~

~~(3) (i) REVIEW SHALL BE ON THE RECORD MADE BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS, UNLESS EITHER PARTY TO THE APPEAL REQUESTS TRANSCRIPTION OF THE TAPE.~~

~~(ii) A REQUEST FOR TRANSCRIPTION OF THE TAPE SHALL BE MADE AT THE TIME THE APPEAL IS FILED.~~

~~(iii) 1. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL PREPARE THE TRANSCRIPTION BEFORE THE APPEAL HEARING.~~

~~2. THE PARTY REQUESTING THE TRANSCRIPTION SHALL BEAR THE COST OF TRANSCRIPTION.~~

~~(4) THE CIRCUIT COURT SHALL HEAR AND ISSUE A DECISION ON AN APPEAL WITHIN 30 CALENDAR DAYS AFTER THE DATE THE APPEAL WAS FILED. AN INDIVIDUAL ADMITTED TO A STATE FACILITY OR ANOTHER INDIVIDUAL AUTHORIZED BY THE ADMITTED INDIVIDUAL MAY REQUEST A RECONSIDERATION OF THE REVIEW AND REASSESSMENT COMPLETED UNDER SUBSECTION (G) OF THIS SECTION BY FILING A GRIEVANCE WITH THE RESIDENT GRIEVANCE SYSTEM UNDER COMAR 12.21.14 10.21.14.~~

~~(i) (1) AN INDIVIDUAL ADMITTED TO A STATE FACILITY OR ANOTHER INDIVIDUAL AUTHORIZED BY THE ADMITTED INDIVIDUAL MAY APPEAL THE RECONSIDERATION OF THE REVIEW AND REASSESSMENT COMPLETED UNDER SUBSECTION (H) OF THIS SECTION BY FILING A REQUEST WITH THE DEPARTMENT'S HEALTHCARE SYSTEM'S CHIEF MEDICAL OFFICER.~~

~~(2) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH A PROCESS FOR THE APPEAL OF THE RECONSIDERATION OF THE REVIEW AND REASSESSMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

(J) IF ~~A~~ AN INDIVIDUAL IS ADMITTED TO A STATE FACILITY AND THE STATE FACILITY IS UNABLE TO PROVIDE THE TREATMENT NECESSARY TO ADDRESS THE REHABILITATION NEEDS OF AN INDIVIDUAL UNDER A PLAN OF TREATMENT FOR THE INDIVIDUAL, THE STATE FACILITY SHALL:

(1) MAKE ARRANGEMENTS FOR THE INDIVIDUAL TO RECEIVE NECESSARY TREATMENT FROM ANOTHER FACILITY OR OTHER HEALTH CARE PROVIDER OUTSIDE THE STATE FACILITY; AND

(2) ENSURE THAT TREATMENT FOR THE INDIVIDUAL IS COORDINATED BETWEEN THE STATE FACILITY AND THE OTHER FACILITY OR HEALTH CARE PROVIDER.

PART II. RESIDENT GRIEVANCE SYSTEM REPORT.

10-908.

ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2024, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE RESIDENT GRIEVANCE SYSTEM ESTABLISHED UNDER COMAR ~~12.21.14~~ 10.21.14; AND

(2) THE GRIEVANCES THAT WERE RECEIVED BY THE RESIDENT GRIEVANCE SYSTEM RELATED TO STATE FACILITIES DURING THE IMMEDIATELY PRECEDING FISCAL YEAR.

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

Approved by the Governor, May 3, 2023.