

# Health Occupations Title 20

## Board for the Certification of Residential Child Care Program Administrators and Youth Care Practitioners

### Subtitle 1 Definitions

#### §20-101. Definitions

- (a) In this title the following words have the meanings indicated.
- (b) (1) "Agency" means:
- (i) The Developmental Disabilities Administration in the Department;
  - (ii) The Department;
  - (iii) The Department of Human Resources;
  - (iv) The Department of Juvenile Services; and
  - (v) The Behavioral Health Administration in the Department.
- (2) "Agency" includes the State Superintendent of Schools.
- (c) "Board" means the State Board for Certification of Residential Child Care Program Professionals.
- (d) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.
- (e) "Certificate" means, unless the context requires otherwise, a certificate issued by the Board to practice as a program administrator or as a residential child and youth care practitioner.
- (f) "Certified program administrator" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a program administrator.
- (g) "Certified residential child and youth care practitioner" means, unless the context requires otherwise, an individual who is certified by the Board to practice as a residential child and youth care practitioner.
- (h) "Chief administrator" means the individual, regardless of title, who is appointed by the governing body of a residential child care program as having responsibility for the overall administration of the program.
- (i) "Child protective services background clearance" means a search by a local department of social services of a central registry established under Title 5, Subtitle 7 of the Family Law Article for information about child abuse and neglect investigations relating to an individual.
- (j) "Program administrator" means the individual responsible for the day-to-day management and operation of a residential child care program and for assuring the care, treatment, safety, and protection of the children in the residential child care program.
- (k) (1) "Residential child and youth care practitioner" means an individual assigned to perform direct responsibilities related to activities of daily living, self-help, and socialization skills in a residential child care program under the direction of a certified program administrator.
- (2) "Residential child and youth care practitioner" does not include an individual assigned to perform direct responsibilities related to activities of daily living, self-help, and socialization skills in a residential child care program licensed by the Developmental Disabilities Administration.
- (l) (1) "Residential child care program" means an entity that provides for children 24-hour per day care within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.
- (2) "Residential child care program" includes a program:
- (i) Licensed by:
    1. The Department of Health and Mental Hygiene;
    2. The Department of Human Resources; or
    3. The Department of Juvenile Services; and
  - (ii) That is subject to the licensing regulations of the Governor's Office for Children governing the operations of residential child care programs.

*Subtitle 2. State Board for Certification of Residential Child Care Program Administrators in the Department.*

**§20-201. Established**

There is a State Board for Certification of Residential Child Care Program Professionals in the Department.

**§20-202. Composition**

- (a) (1) The Board consists of 12 members.
- (2) Of the 12 Board members:
- (i) Six members shall be appointed as follows:
1. Two by the Secretary of Health and Mental Hygiene, one each for the Developmental Disabilities Administration and the Behavioral Health Administration;
  2. One by the Secretary of Juvenile Services for the agency;
  3. One by the Secretary of Human Resources for the agency;
  4. One by the State Superintendent of Schools; and
  5. One by the Subcabinet; and
- (ii) Six shall be appointed by the Governor.
- (3) Of the six appointed by the Governor:
- (i) Three shall be program administrators;
- (ii) One shall be a residential child and youth care practitioner; and
- (iii) Two shall be consumer members.
- (b) The Governor shall appoint members with the advice and consent of the Senate.
- (c) Each Board member shall:
- (1) Be a United States citizen; and
  - (2) Have resided in this State for at least 1 year before appointment to the Board.
- (d) A consumer member of the Board:
- (1) May not be a program administrator or a residential child and youth care practitioner;
  - (2) May not have a household member who is a program administrator or a residential child and youth care practitioner;
  - (3) May not have a household member who participates in a commercial or professional field related to administering a program; and
  - (4) May not have had within 2 years before appointment a substantial financial interest in a program regulated by an agency.
- (e) While a member of the Board, a consumer member may not have a substantial financial interest in a program regulated by an agency.
- (f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.
- (g) (1) The term of a member is 4 years.
- (2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 2004.
- (3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
- (4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
- (5) A member may not serve more than two consecutive full terms.
- (6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.
- (h) (1) The Governor may remove a member for incompetence, misconduct, incapacity, or neglect of duty.
- (2) On the recommendation of the Children's Cabinet, the Governor may remove a member whom the Children's Cabinet finds to have been absent from two successive Board meetings without adequate reason.

**§20-203. Officers**

- (a) From among its members, the Board annually shall elect a chairman, vice chairman, and executive secretary.
- (b) The Board shall determine:
- (1) The manner of election of officers;

- (2) The term of office of each officer; and
- (3) The duties of each officer.

**§20–204. Quorum; meetings; Reimbursement; staffing**

- (a) A majority of the full authorized membership of the Board is a quorum.
- (b) The Board shall meet at least twice a year, at the times and places that it determines.
- (c) Each member of the Board is entitled to reimbursement for expenses at a rate determined by the Board.
- (d) The Board may employ staff in accordance with the budget of the Board.
- (e) The Board may appoint an executive director.
- (f) The executive director:
  - (1) Serves at the pleasure of the Board;
  - (2) Serves as the executive officer of the Board; and
  - (3) Has the powers and duties assigned by the Board.

**§20–205. Powers and duties**

- (a) In addition to the powers and duties set forth elsewhere in this title, the Board in consultation with the Children’s Cabinet shall:
  - (1) Adopt regulations to carry out the provisions of this subtitle;
  - (2) Establish standards for the certification of applicants;
  - (3) Conduct a continuing study and investigation of program administrators and residential child and youth care practitioners to improve:
    - (i) Certification standards; and
    - (ii) Procedures for enforcing these standards;
  - (4) Establish a tiered certification structure for residential child and youth care practitioners; and
  - (5) Devise examinations and adopt investigative procedures to:
    - (i) Determine whether program administrators and residential child and youth care practitioners meet the standards adopted by the Board; and
    - (ii) Assure that program administrators and residential child and youth care practitioners continue to meet these standards.
- (b) In addition to the duties set forth elsewhere in this title, the Board shall:
  - (1) Maintain a registry of all program administrators and residential child and youth care practitioners certified by the Board;
  - (2) Submit an annual report to the Governor and Children’s Cabinet;
  - (3) Adopt a code of ethics that the Board considers appropriate and applicable to the program administrators and residential child and youth care practitioners certified by the Board;
  - (4) Establish continuing education requirements for the program administrators certified by the Board;
  - (5) Establish training and continuing education requirements for the residential child and youth care practitioners certified by the Board;
  - (6) Adopt an official seal; and
  - (7) Create committees as it deems appropriate to advise the Board on special issues.

**§20–206. Fees**

- (a) The Board:
  - (1) Shall set reasonable fees for:
    - (i) The issuance and renewal of certificates;
    - (ii) Approving training programs for residential child and youth care practitioners; and
    - (iii) Its other services;
  - (2) May waive the fees, based on demonstrated need, as determined by the Board; and
  - (3) May not require fees for the examination of qualified certified residential child and youth care practitioner applicants under this title.
- (b) The Board shall pay all money collected under this title into the General Fund of the State.

**§20–207. Immunity from liability**

A person shall have the immunity from liability described under § 5-723 of the Courts Article for giving information to the Board or otherwise participating in its activities.

§20–208.

A person shall have immunity from the liability described under § 5–723 of the Courts Article for giving information to the Board or otherwise participating in its activities.

### *Subtitle 3. Certification Process.*

#### **§20–301. Certification process**

(a) (1) Except as otherwise provided in this subsection, an individual shall receive a certificate from the Board before the individual may be a program administrator in this State.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, if a program administrator leaves or is removed from a position as program administrator by death or for any other unexpected cause, the chief administrator of a residential child care program or other appropriate program authority shall immediately designate a certified program administrator to serve in that capacity.

(ii) 1. In the event a certified program administrator is not available, the chief administrator or other appropriate program authority may appoint a noncertified person to serve in the capacity of acting program administrator for a period not to exceed 90 days.

2. The chief administrator or other appropriate program authority shall immediately notify the Board of the appointment and forward the credentials and the State and national criminal history records check of the person appointed to the Board for evaluation to assure that the person appointed is experienced, trained, of good moral character, and competent.

3. The 90–day period begins on the date that the program administrator leaves or is removed from the position as a program administrator.

4. The Board may extend the 90–day period for a further period of not more than 30 days.

(b) (1) Except as provided in paragraph (2) of this subsection, on or before October 1, 2015, an individual shall receive a certificate from the Board before the individual may be a residential child and youth care practitioner in this State.

(2) This subsection does not apply to:

(i) An employee of the Maryland School for the Blind who is a residential child and youth care practitioner and holds a current paraprofessional certificate; or

(ii) For up to 180 days, an individual participating in a Board–approved training program.

(c) (1) The governing body of each residential child care program shall appoint a chief administrator of the program.

(2) If the chief administrator of a residential child care program leaves or is removed from a position as chief administrator by death or for any other unexpected cause, the governing body of the residential child care program shall immediately designate an individual to serve as the acting chief administrator for a period not to exceed 180 days.

#### **§20–302. Qualifications**

(a) To qualify for a certificate as a program administrator, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall have completed:

(1) A State and national criminal history records check; and

(2) Unless waived by the Board under § 20–303(d) of this subtitle, a child protective services background clearance.

(d) The applicant shall be at least 21 years old.

(e) The applicant shall have:

(1) (i) A bachelor's degree from an accredited college or university; and

(ii) At least 4 years experience in the human service field with at least 3 years in a supervisory or administrative capacity; or

(2) (i) A master's degree from an accredited college or university; and

(ii) At least 2 years experience in the human service field with at least 1 year in a supervisory or administrative capacity.

(f) Except as otherwise provided in this title, the applicant shall pass an examination given by the Board under this subtitle.

### **§20–302.1. Certification as a residential child and youth care practitioner**

- (a) To qualify for a certificate as a residential child and youth care practitioner, an applicant shall be an individual who meets the requirements of this section.
- (b) The applicant shall be of good moral character.
- (c) The applicant shall have completed:
- (1) A State and national criminal history records check; and
  - (2) Unless waived by the Board under § 20–303(d) of this subtitle, a child protective services background clearance.
- (d) The applicant shall be:
- (1) At least 21 years old; or
  - (2) At least 18 years old and have earned at least an associate's or bachelor's degree from an accredited college or university.
- (e) The applicant shall have:
- (1) A high school diploma or equivalent and have successfully completed an approved training program; and
  - (2)
    - (i) At least 2 years experience in the human service field; or
    - (ii) An associate's or bachelor's degree from an accredited college or university.
- (f)
  - (1) Except as provided in paragraph (2) of this subsection, the applicant shall have successfully completed a training program approved under § 20–302.2 of this subtitle.
  - (2)
    - (i) An applicant who has an associate's or bachelor's degree from an accredited college or university may be waived from the training program requirement, if the applicant passes an examination and meets other requirements established by the Board under this subtitle.
    - (ii) The Board shall establish requirements and procedures for waiving the training program requirement for an applicant under subparagraph (i) of this paragraph.
- (g) The applicant shall pass an examination given by the Board under this subtitle.
- (h) The Board shall waive the education, experience, training, and examination requirements of this section for an applicant who:
- (1) Applies for certification on or before October 1, 2015; and
  - (2) Presents to the Board satisfactory evidence that the applicant worked as a residential child and youth care practitioner in the State for at least 2 years before October 1, 2015.

### **§20–302.2. Regulations for approved training programs**

- (a) The Board shall adopt regulations for approved training programs for residential child and youth care practitioners.
- (b) Successful completion of an approved training program shall prepare an individual for certification as a residential child and youth care practitioner.
- (c) The regulations shall:
- (1) Require an approved training program to provide a fundamental working knowledge of the varied aspects of performing the direct responsibilities related to activities of daily living, self-help, and socialization to children and youth in residential child care programs;
  - (2) Establish a process for approving residential child and youth care practitioner training programs; and
  - (3) Establish the contact hours, curriculum, format, and fees for approved training programs.
- (d) The Board shall post a list of approved training programs on its Web site.

### **§20–303. Applications**

- (a) To apply for a certificate, an applicant shall:
- (1) Submit an application to the Board on the form that the Board requires;
  - (2) Provide evidence of application for a child protective services background clearance;
  - (3) Pay to the Board the application fee set by the Board; and
  - (4) Apply to the Central Repository for a State and national criminal history records check.
- (b)
  - (1) As part of the application for a criminal history records check, the applicant shall submit to the Central Repository:
    - (i) A legible set of fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;
    - (ii) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and
    - (iii) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(2) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Board the applicant's criminal history records information.

(3) Information obtained from the Central Repository under this subsection:

(i) Is confidential and may not be redisseminated; and

(ii) May be used only for the certification purpose authorized by this subtitle.

(4) The subject of a criminal history records check under this subsection may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(c) The results of the child protective services background clearance shall be provided to the Board and the applicant.

(d) The Board may, at its discretion, waive the requirement in subsection (a)(2) of this section for an out-of-state applicant who presents evidence to the Board that circumstances outside the applicant's control prevent the applicant from obtaining, from the applicant's state of residence, a background clearance that is equivalent to a child protective services background clearance.

#### **§20–304. File**

(a) The Board shall keep a file of each certificate application made under this subtitle.

(b) The file shall contain:

(1) The name, resident address, employment address, and age of the applicant;

(2) The date of the application;

(3) Complete and current information on the educational, training, and experience qualifications of the applicant;

(4) The date the Board reviewed and acted on the application;

(5) The action taken by the Board on the application;

(6) The identifying numbers of any certificate or renewal certificate issued to the applicant; and

(7) Any other information that the Board considers necessary.

(c) The application files shall be open to public inspection.

#### **§20–305. Examination of applicants**

(a) An applicant who otherwise qualifies for a certificate is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least four times a year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) Subject to the provisions of this subsection, for qualified certified program administrator applicants, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(2) The subjects of examination shall be related to:

(i) Health and safety issues, including:

1. Nutritional standards;

2. Water safety;

3. Preventative and acute health care standards;

4. Suicide assessment;

5. Prevention of abuse and neglect; and

6. Crisis intervention and problem solving;

(ii) The importance of staff training in appropriate observation techniques, including educational and psychological tests and social histories;

(iii) Rights of the child, including:

1. Educational and recreational needs; and

2. Establishment of and compliance with appropriate grievance procedures;

(iv) Physical plant requirements;

(v) Criminal history records checks of personnel;

(vi) Fiscal accountability;

(vii) Record keeping that complies with federal requirements and State regulations;

(viii) Emergency planning; and

(ix) Other standards established in the regulations.

(3) Each applicant shall be required to show knowledge of the laws, rules, and regulations that apply to programs.

(4) The scope, content, and form of an examination shall be the same for all certificate applicants who take the examination at the same time.

(e) For qualified certified residential child and youth care practitioner applicants, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(f) (1) The Board may limit the number of times an applicant may take an examination required under this subtitle.

(2) To qualify for a certificate, an applicant shall pass the examination within 3 years of the first time the applicant takes the examination.

#### **§20–306. Waiver of examination**

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this title for an individual who is certified as a program administrator in any other state that the Board determines has a comparable certification process to the one established in this title.

(b) The Board may grant a waiver under this section only if the applicant:

- (1) Is of good moral character;
- (2) Pays the application fee required by the Board under § 20–303 of this subtitle; and
- (3) Provides adequate evidence that:

(i) At the time the applicant was certified in the other state, the applicant was qualified to take the examination that then was required by the laws of this State;

(ii) The applicant qualified for a certificate in the other state by passing an examination given in that or any other state; and

(iii) The applicant has completed a State and national criminal history records check.

#### **§20–307. Issuance of certificate**

(a) The Board shall issue a certificate to any applicant who meets the requirements of this title.

(b) The Board shall include on each certificate that the Board issues:

- (1) The full name of the certificate holder; and
- (2) A serial number.

(c) The Board may issue a certificate to replace a lost, destroyed, or mutilated certificate if the certificate holder pays the certificate replacement fee set by the Board.

(d) An applicant to whom the Board has issued a certificate under this section shall maintain on file with the Board the applicant's current resident address and employment address and update the information whenever changes in residency or employment occur.

#### **§20–308. Appeal of Board decisions regarding certificates**

The applicant may petition for judicial review of a decision of the Board that relates to issuing or renewing a certificate as allowed by the Administrative Procedure Act.

#### **§20–309. Authorization granted**

A certificate authorizes:

(1) An individual who is a program administrator to administer a residential child care program while the certificate is effective; or

(2) An individual who is a residential child and youth care practitioner to perform direct responsibilities related to activities of daily living, self-help, and socialization skills in a residential child care program while the certificate is effective.

#### **§20–310. Expiration and renewal**

(a) (1) A certificate expires on a date set by the Board, unless the certificate is renewed for an additional term as provided in this section.

(2) A certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the certificate expires, the Board shall send to the certified program administrator or certified residential child and youth care practitioner, by electronic means or first-class mail to the last known electronic or physical address of the certified program administrator or certified residential child and youth care practitioner, a renewal notice that states:

- (1) The date on which the current certificate expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and
- (3) The amount of the renewal fee.

(c) Before the certificate expires, the certified program administrator or certified residential child and youth care practitioner periodically may renew it for an additional 2-year term, if the certified program administrator or certified residential child and youth care practitioner:

- (1) Otherwise is entitled to obtain a certificate;
- (2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

- (i) A renewal application on the form that the Board requires;
- (ii) Satisfactory evidence of compliance with any continuing education and other qualifications and requirements set under this section for certificate renewal;
- (iii) Evidence of application for a child protective services background clearance; and
- (iv) Fingerprints for use by the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct a State and national criminal history records check.

(d) In addition to any other qualifications and requirements established in consultation with the Children's Cabinet, the Board may set continuing education requirements as a condition for the renewal of certificates under this section.

(e) The Board shall renew the certificate of each certified program administrator or certified residential child and youth care practitioner who meets the requirements of this section.

(f) The Board may, at its discretion, waive the requirement in subsection (c)(3)(iii) of this section for an out-of-state applicant who presents evidence to the Board that circumstances beyond the applicant's control prevent the applicant from obtaining, from the applicant's state of residence, a background clearance that is equivalent to a child protective services background clearance.

(g) A certified program administrator or a certified residential child and youth care practitioner shall report to the Board any arrests or investigations that would appear on a child protective services background clearance and that occur during the period between issuance of the clearance and renewal of the certificate.

#### **§20–311. Reinstatement of certificate**

(a) The Board shall reinstate the certificate of a program administrator or residential child and youth care practitioner who has failed to renew the certificate for any reason, if the individual:

- (1) Has not had the certificate suspended or revoked;
- (2) Meets the renewal requirements of § 20–310 of this subtitle;
- (3) Pays to the Board the reinstatement fee set by the Board;
- (4) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this title for certificate reinstatements;
- (5) Provides fingerprints for use by the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct a State and national criminal history records check;

- (6) Provides evidence of application for a child protective services background clearance; and
- (7) Applies to the Board for reinstatement of the certificate within 5 years after the certificate expires.

(b) (1) The Board may not reinstate the certificate of a program administrator or residential child and youth care practitioner who fails to apply for reinstatement of the certificate within 5 years after the certificate expires.

(2) However, the program administrator or residential child and youth care practitioner may be certified by meeting the current requirements for obtaining a new certificate under this title.

(c) The Board may, at its discretion, waive the requirement in subsection (a)(6) of this section for an out-of-state applicant who presents evidence to the Board that circumstances beyond the applicant's control prevent the applicant from obtaining, from the applicant's state of residence, a background clearance that is equivalent to a child protective services background clearance.

#### **§20–312. Surrender of certificate**

(a) Unless the Board agrees to accept the surrender of a certificate, a certified program administrator or certified residential child and youth care practitioner may not surrender the certificate nor may the certificate lapse by operation of law while the certified program administrator or certified residential child and youth care practitioner is under investigation or while charges are pending against the certified program administrator or certified residential child and youth care practitioner.

(b) The Board may set conditions on its agreement with the certified program administrator or certified residential child and youth care practitioner under investigation or against whom charges are pending to accept surrender of the certified program administrator's certificate or the certified residential child and youth care practitioner's certificate.

#### **§20–313. Investigations; complaints; sanctions; prohibited acts**

(a) The Board shall investigate and take appropriate action as to any complaint filed with the Board that alleges that a certified program administrator or certified residential child and youth care practitioner has failed to meet any standard of the Board.

(b) Subject to the hearing provisions of § 20–314 of this subtitle, the Board may deny a certificate to any applicant, reprimand any certified program administrator or certified residential child and youth care practitioner, place

any certified program administrator or certified residential child and youth care practitioner on probation, or suspend or revoke a certificate if the applicant, certified program administrator, or certified residential child and youth care practitioner:

(1) Fraudulently or deceptively obtains or attempts to obtain a certificate for a program administrator or residential child and youth care practitioner, or for another;

(2) Fraudulently or deceptively uses a certificate;

(3) Otherwise fails to meet substantially the standards for certification adopted by the Board under § 20–205 of this title;

(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(5) Performs the duties of a program administrator or residential child and youth care practitioner while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(7) Performs the duties of a program administrator or residential child and youth care practitioner with an unauthorized person or supervises or aids an unauthorized person in performing the duties of a program administrator or residential child and youth care practitioner;

(8) Willfully makes or files a false report or record while performing the duties of a program administrator or residential child and youth care practitioner;

(9) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(10) Commits an act of unprofessional conduct in performing the duties of a program administrator or residential child and youth care practitioner;

(11) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the individual is certified and qualified to render because the individual is HIV positive; or

(12) Fails to maintain on file with the Board a current resident address and employment address or notify the Board when the residency or place of employment changes.

#### **§20–314. Hearings**

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 20-313 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(c) Over the signature of an officer or the executive secretary of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(d) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

#### **§20–315. Appeals**

(a) Except as provided in this section for an action under § 20–313 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any person aggrieved by a final decision of the Board under § 20–314 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

### *Subtitle 4. Prohibited Acts; Penalties.*

#### **§20–401. Performing duties without certification prohibited; attempts; aiding, supervising, etc**

Except as otherwise provided in this title, an individual may not:

- (1) Perform the duties of, attempt to perform the duties of, or offer to perform the duties of a program administrator or residential child and youth care practitioner in this State unless certified by the Board; or
- (2) Supervise, direct, induce, or aid an uncertified individual to perform the duties of a program administrator or residential child and youth care practitioner.

**§20–402. Misrepresentation to public as certified prohibited**

(a) Unless authorized to perform the duties of a program administrator or residential child and youth care practitioner under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is a program administrator or residential child and youth care practitioner in this State.

(b) Unless authorized to practice under this title, a person may not use the title “residential child care program administrator”, “residential child and youth care practitioner”, or any other designation, title, or abbreviation with the intent to represent that the person is authorized to perform the duties of a program administrator or residential child and youth care practitioner.

**§20–403. Fraudulent certificates**

A person may not:

- (1) Sell or fraudulently obtain or furnish or aid in selling or fraudulently obtaining or furnishing a certificate issued under this title; or
- (2) Perform the duties of a program administrator or residential child and youth care practitioner under any certificate unlawfully or fraudulently obtained or issued.

**§20–404. Operation of program in absence of administrator prohibited; exception**

Except when a program administrator is removed from the position by death or for any other unexpected cause as provided in § 20-301 of this title, a program may not be operated unless it is under the day-to-day management and operation of a certified program administrator.

**§20–405. Penalties**

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to:

- (1) A fine not exceeding \$1,000 for a first offense; and
- (2) A fine not exceeding \$5,000 or imprisonment not exceeding 6 months or both for any subsequent violation of the same provision.

*Subtitle 5. Short Title; Termination of Title.*

**§20–501. Short title**

This title may be cited as the “Maryland Certification of Residential Child Care Program Professionals Act”.

**§20–502. Termination of title**

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, 2024.