

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 620

(Senator Kelley)

Finance

Health and Government Operations

Mental Health - Approval by Clinical Review Panel of Administration of
Medication - Standard

The bill alters the standard for approval for a clinical review panel (CRP) that determines whether to approve that psychiatric medication be administered to a patient suffering from serious mental illness without the patient's consent.

Fiscal Summary

State Effect: The bill's changes are largely procedural in nature and do not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill removes "danger to the individual or to others" language from the existing standard for approval of involuntary administration of medication to a patient. Under the bill's language, the CRP may approve administration of medication or medications and may recommend and approve alternative medications if the panel determines that, in addition to two other criteria, without the medication the individual is at substantial risk of continued hospitalization because of:

- remaining seriously mentally ill with no significant relief of the mental illness symptoms that (1) cause the individual to be a danger to the individual or others while in the hospital; (2) resulted in the individual being committed to a hospital;

or (3) would cause the individual to be a danger to the individual or others if released from the hospital;

- remaining seriously mentally ill for a significantly longer period of time with the mental illness symptoms that either (1) cause the individual to be a danger to the individual or others while in the hospital; (2) resulted in the individual being committed to a hospital; (3) or would cause the individual to be a danger to the individual or others if released from the hospital; or
- relapsing into a condition in which the individual is *unable* to provide for the individual's essential human needs of health or safety.

Current Law: Pursuant to § 10-708 of the Health General Article, medication may not be administered to an individual who refuses the medication except (1) in an emergency, on the order of a physician where the individual presents a danger to the life or safety of the individual or others or (2) in a nonemergency, when the individual is hospitalized involuntarily or committed to treatment by order of a court and the medication is approved by a CRP according to specified restrictions.

A CRP is authorized to approve the administration of medication to (and approval of alternative medications for) an individual who objects to the medication if the panel determines that (1) the medication is prescribed by a psychiatrist for the purpose of treating the individual's mental disorder; (2) the administration of medication represents a reasonable exercise of professional judgment; and (3) without medication, the individual is at substantial risk of continued hospitalization. Moreover, the individual must be at substantial risk of continued hospitalization due to (1) remaining seriously mentally ill with no significant relief from, or for a longer period of time with, the mental illness symptoms that cause the individual to be a danger to the individual or to others or (2) relapsing into a condition in which the individual is in danger of serious physical harm resulting from the individual's inability to provide for his or her essential human needs of health or safety.

Background: In 2007, the Court of Appeals in *Dep't of Health and Mental Hygiene v. Kelly*, 397 Md. 399 (2007), ruled that a CRP must look at whether the individual is dangerous within the facility, not whether the individual poses a danger to the community if released. Some advocates believe that the definition of "dangerousness" should be broadened so that the CRP may consider whether the patient would pose a danger to the community if released. These advocates argue that broadening the definition would allow for better treatment of seriously mentally ill individuals who lack insight into their condition and could result in earlier release. However, opponents of the change argue that (1) the State's interest in changing the standard does not override an individual's

right to bodily integrity and (2) individuals who have been forcibly medicated are less likely to voluntarily seek treatment in the community.

Additional Information

Prior Introductions: None.

Cross File: HB 592 (Delegates Morhaim and Hammen) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2014
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