

Revised



February 18, 2020

The Honorable Delores G. Kelley
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: Oppose – SB 541: Mental Health - Involuntary Admissions - Procedures

Dear Chairman Kelley and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) is a state medical organization whose physician members specialize in the diagnosis, treatment, and prevention of mental illnesses including substance use disorders. Formed more than sixty years ago to support the needs of psychiatrists and their patients, MPS works to ensure available, accessible and comprehensive quality mental health resources for all Maryland citizens; and strives through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branch of the American Psychiatric Association covering the state of Maryland excluding the D.C. suburbs, MPS represents over 700 psychiatrists as well as physicians currently in psychiatric training.

MPS opposes Senate Bill 317 (SB 541) for it would imprudently authorize a sole psychologist or psychiatric nurse practitioner (PNP) instead of a psychiatrist to conduct the psychiatric examination that is required within 24 hours of an individual's involuntary commitment to an inpatient psychiatric facility, conduct the psychiatric examination required within 48 hours of the same individual's involuntary commitment hearing, and then allow the psychologist or PNP to testify as an expert witness at the involuntary commitment hearing before an Administrative Law Judge who determines the individual's continued admission. As the following explains, the decision to curtail an individual's liberty through involuntary admission must be predicated on the soundest evaluations and observations, which from MPS's perspective can only be provided by a psychiatrist.

To begin, SB 541 ignores the purposefully rigorous application process that begins an involuntary admission in the first place. MD Code, Health - General § 10-615 requires among other things two accompanying certificates based on personal examination of the individual to be signed by 1 physician and 1 psychologist, 2 physicians, or 1 physician and 1 PNP. Notice that the common denominator for involuntary admission certification is the presence of at least one physician. The question becomes, why would we abandon this prudent approach once an individual is actually confined? Yet SB 541 does just that.



With an individual's liberty in the balance, current law requires that within 24 hours of an individual's involuntary confinement, a psychiatrist must examine that individual. This is the beginning of the "observation period," the time when the patient's diagnosis is clarified and the psychiatrist determines whether the patient is safe for discharge. During the observation period the psychiatrist clarifies the individual's diagnosis that led to a commitment by conducting a physical examination, by ordering and interpreting laboratory tests, by reviewing and summarizing medical records, and by interviewing collateral historians. All of this information is ultimately presented at a civil commitment hearing before an Administrative Law Judge, but would have been unavailable to the individual who merely signed the civil certificates in the emergency department. This is why current law rightfully mandates that the person who testifies at a civil commitment hearing is the treating inpatient psychiatrist rather than the emergency room physician or psychiatric evaluator who signed the certificates.

Furthermore, the accuracies of the medical examinations post confinement are paramount and are rightfully imparted to a psychiatrist who is a physician first, and not a PNP or psychologist. While a PNP and psychologists are both vital components of the care team, expanding their scope to evaluate patients for continued involuntary confinement without physician involvement and testifying as an expert at the hearings that ultimately determine the individual's liberty is dangerous to patient safety and runs counter to our shared values.

Unfortunately, neither PNPs, with their comparatively limited medical training, nor psychologists, with no medical training, have the ability to perform differential diagnoses, which is the process of differentiating between two or more conditions, which share similar signs or symptoms. This is of the utmost importance in cases of involuntary admission as physical illnesses can sometimes present as mental illness and it cannot be the policy of this State to involuntarily commit the physically ill due to an inadequate medical evaluation that labels the individual as mentally ill. Physicians spend years learning differential diagnoses, pharmacology, and honing their medical skills. This is a critical component of expertise for psychiatrists and other physicians, who under current Maryland law must be at least one part of the health care team credentialing an involuntary commitment.

In the end, procedures for involuntary admissions should always be designed to minimize adverse impacts on patients and expanding involuntary confinement evaluation authority to those with no or insufficient medical training would expose patients to safety risks through inadequate evaluations. SB 541 could theoretically remove all psychiatrist involvement in the involuntary admission process, leaving a psychologist or PNP to testify regarding the results of a physical examination he didn't conduct, the results of



tests he was not legally authorized to order or interpret, or the need for pharmacologic treatment he was not legally allowed to prescribe.

For these reasons, MPS respectfully asks the committee to preserve current Maryland law requiring at least one physician to be involved with involuntary commitment, confinement, and hearing process and oppose SB 541. If you have any questions with regard to this testimony, please feel free to contact Thomas Tompsett, Jr. at tommy.tompsett@mdlobbyist.com.

Respectfully submitted,
The Legislative Action Committee for the Maryland Psychiatric Society

