
To: Members of The House Health and Government Operations Committee

From: Elena Sallitto, Section Member and Morris Klein, Section Chair, Elder Law and Disability Rights Section

Date: March 5, 2020

Subject: **Bill # HB1163** – Home and Community Based Waiver Services – Alterations and Task Force

Position: **SUPPORT**

The Maryland State Bar Association (MSBA) **supports House Bill # 1163 , Home and Community Based Waiver Services – Alterations and Task Force**

The US Supreme Court established that it is a fundamental civil right to receive state-funded long- term services and supports in the community rather than to force someone into an institution for healthcare. Maryland lags far behind other states in providing community-based supports, instead favoring forced institutionalization. This policy deprives people of their civil rights and strips them of their basic human dignity. Olmstead v. L.C. 527 US 581 (1999).

Florida, like Maryland, also promotes forced institutionalization. That state is facing a class action lawsuit for its deprivation of civil rights. Alexander v. Mayhew & Prudom, CIV Action No. 4:18-CV-00569-RH-MJR (Northern District of Florida, June 3, 2019). Maryland currently has over 21,000 people on its 8 year waiting list for community-based services. If we fail to pass SB642, we are inviting a similar lawsuit.

Promoting home and community-based support services makes economic sense. Community based supports are less expensive than nursing home care. The experience of other states proves that better utilization of home-based services coupled with planned rebalancing efforts allow states to better contain long-term services spending and reduce overall costs. See, “State Studies Find Home and Community-Based Services to be Cost-Effective” *Spotlight 2*, AARP Public Policy Institute, March 2013.

Another study found that gradual rebalancing, by roughly two percentage points annually, can reduce spending by about 15 percent over ten years. The converse is also true.

Reducing home-based services increases over-all spending. H. Stephen Kaye, .” “Gradual Rebalancing of Medicaid Long-Term Services and Supports Saves Money and Serves More People, Statistical Model Shows”, *Health Affairs*, 31, no.6 (2012) 1195-1203.

We are facing a dramatic increase in the number of people needing long-term services and supports as the baby-boomers age. According to demographics contained in the Maryland State Plan on Aging, 2017-2020, the population of those over 60 will increase by 40% by 2030 and the population of those between 80-84 will increase 136% by 2040. Instead of increasing our commitment to providing Home and Community Based Services, we are doing the opposite and further limiting their availability. In so doing, we are virtually guaranteeing spiraling and out of control long-term care costs. The time to plan for a structured, reasonable response to this challenge is now.

For the reasons stated above, the MSBA **supports HB1163 and urges a favorable committee report.**

Please contact Elena Sallitto, 410-268-9246, elena@Stavelylaw.com; or Morris Klein, 301-652-4462, morrisklein@morrisklein.com if you have any questions.