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POSITION ON PROPOSED LEGISLATION

BILL: HB 377 Physician Assistants - Parity With Other Health Care Practitioners

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 2, 2026

Expanding Maryland's current involuntary psychiatric commitment certification standards to include physician assistants as authorized certifiers for involuntary admission is an unwarranted and potentially detrimental policy shift. While physician assistants (PAs) are highly valued members of the medical community and play a crucial role in delivering healthcare, especially in primary care and underserved areas, the specific authority to involuntarily commit an individual for psychiatric treatment requires a level of specialized training, experience, and legal accountability that is currently best maintained with licensed physicians (MD/DO) and certain advanced practice psychiatric nurse practitioners (CRNP-PMH) who have specific mental health expertise.

The certification process for involuntary commitment is a serious legal and clinical action that deprives a person of their liberty. It is a decision that demands an exhaustive clinical assessment of danger to self or others due to a mental disorder. This assessment requires nuanced differential diagnosis to rule out medical conditions mimicking psychiatric illness, a deep understanding of psychopathology, and familiarity with the legal standards of commitment.

Currently, Medical Residents cannot certify a person for involuntary psychiatric commitment *unless* they are supervised by a physician. This existing supervisory requirement for residents underscores the high legal and clinical threshold Maryland already maintains for involuntary commitment. Extending this same authority to Physician Assistants, who do not undergo the same extensive, specialized residency training in psychiatry as residents (even non-psychiatric residents remain under the direct oversight of a physician), would lower the standard of care for a procedure with significant legal ramifications. The focus must remain on ensuring that the certifying clinician has the highest level of specialized mental health expertise and direct accountability.

The current legislative and clinical framework in Maryland dictates that Medical Residents, despite holding a medical degree, are legally prohibited from independently certifying a person for involuntary psychiatric commitment. This stringent limitation requires that all such

certifications by a resident must be performed under the direct, explicit supervision of a fully licensed physician. This existing supervisory requirement is not merely an administrative detail; it fundamentally underscores the high legal and clinical threshold that Maryland should maintain for involuntary commitment, a procedure that represents the most significant deprivation of personal liberty in the healthcare context.

Extending the authority and power to commit an individual against their will to Physician Assistants would constitute an unacceptable and detrimental lowering of the standard of care for a procedure with such significant legal and ethical ramifications. This concern is compounded by the fact that PAs do not complete the same extensive, specialized residency training in psychiatry as medical residents or psychiatric nurse practitioners. Even medical residents in non-psychiatric specialties, who remain under the direct and constant oversight of a physician, possess a foundational medical education structure that PAs do not replicate. The specialized knowledge required to accurately diagnose and determine the danger necessary for involuntary commitment is the very purpose of psychiatric residency training.

Furthermore, a significant change in PA practice law has recently taken effect. Since 2024, Physician Assistants in Maryland no longer require a formal, legally mandated physician *supervision agreement* to practice. Instead, they are allowed to practice independently under what are termed *collaboration agreements*. While collaboration implies a relationship, it is distinct from, and far less restrictive than, the direct oversight model required for residents. This new legal latitude for PA independence means that, if commitment authority were granted to PAs, the state would authorize an independent practitioner, one without the depth of psychiatric residency training, to unilaterally implement a court-mandated involuntary commitment process.

The paramount focus of this policy debate must remain on ensuring that the clinician certifying an involuntary commitment possesses the absolute highest level of specialized mental health expertise and maintains direct, unequivocal accountability to the patient, the law, and the state's licensing board. The risk of error, misdiagnosis, or inappropriate commitment must be minimized by reserving this power for practitioners who have completed the gold standard of specialized medical education.

The Mental Health Division within the Maryland Office of the Public Defender plays a critical role in the state's legal framework, representing a significant number of individuals facing involuntary civil commitment. Over the past year, the Division has provided legal counsel to more than 9,000 clients across all jurisdictions in Maryland. This extensive caseload encompasses every type of district, from urban centers to suburban counties and more remote rural areas across the state.

The sheer volume and geographic spread of these cases demonstrate that existing certification procedures effectively manage demand for legal intervention in commitment proceedings. The current data strongly suggests that there is no systemic or functional crisis within the existing involuntary civil commitment certification process that requires immediate legislative or regulatory overhaul.

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In light of this evidence, the proposal to permit Physician Assistants to certify individuals for involuntary civil commitment is not a measure to address an existing problem; rather, it introduces a significant and unnecessary risk into a process that concerns citizens' fundamental liberty. While PAs are valuable members of the medical community, expanding the certification authority to them could potentially lead to a higher rate of errors and misdiagnoses in the highly specialized and complex field of psychiatric evaluation for commitment.

This concern is amplified by established data regarding diagnostic reliability in mental health. Studies consistently indicate that the rate of misdiagnosis in psychiatry is already alarmingly high, often exceeding 30%. Introducing a new class of practitioners, whose primary training is broader than the focused specialty of psychiatric diagnosis for commitment, could logically exacerbate this existing vulnerability. The risk of more erroneous commitments, detaining individuals who do not meet the strict legal criteria, is a constitutional and ethical hazard that must be avoided.

For the foregoing reasons, the Maryland Office of the Public Defender opposes HB 377.