

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 549
Finance

(Senator Charles)

**Mental Health - Treatment Plans for Individuals in Facilities - Participation of
Family Members or Other Individuals**

This bill alters provisions related to admission and treatment of an individual in an inpatient mental health facility to require specified documentation and consent to involve family members or other third-party members in an individual's treatment plan. If an individual has executed a mental health advance directive, durable power of attorney for health care, or supported decision-making agreement, a facility must recognize the document as an individual's formal request for a third party to participate in the development, review, and reassessment of the individual's treatment plan. A treating provider may only withhold information on a treatment plan from someone listed in the document if (1) the provider conducts a formal capacity assessment of the individual; (2) the provider finds that the individual has capacity; (3) the individual explicitly and formally objects to the participation of the third party listed in the document; and (4) the finding of capacity and the individual's objection is noted in the individual's patient record.

Fiscal Summary

State Effect: The Office of the Public Defender and the Maryland Department of Health (MDH) can handle any increased workload with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Admission

Under current law, on admission to a facility, the facility must make and periodically update an individual treatment plan for the patient. Each patient must be told, in appropriate terms and language, (1) the content and objectives of the plan of treatment; (2) the nature and significant possible adverse effects of recommended treatments; (3) specified information about those directly responsible for carrying out a patient's treatment; and (4) when appropriate, other available alternative treatments, services, or providers of mental health services. A plan of treatment must include a long-range discharge goal and an estimate of the probable length of inpatient stay the patient requires before becoming eligible for transfer to a less restrictive or less intensive setting.

Facility staff who work directly with and provide treatment to a patient must review and reassess the plan of treatment for the patient to determine progress and any need for plan adjustments at least (1) once every 15 days during the first two months of the inpatient stay and (2) once every 60 days for the remainder of the inpatient stay.

A facility must also ask whether the patient consents to family or any other individuals being informed of and given the opportunity to participate in meetings with the treatment team regarding the development, review, and reassessment of the patient's plan of treatment. If consent is given, at least every seven days afterward, the facility must reconfirm the consent and provide the patient at a clinical visit with an opportunity to consent to additional individuals being informed of and given the opportunity to participate in meetings with the treatment team.

If a patient agrees to have others participate, the facility must (1) provide a schedule of routine treatment team meetings where the plan of treatment is discussed; (2) establish a process for the authorized individuals to participate in treatment team meetings; (3) inform the authorized individuals as soon as a treatment team meeting is scheduled if the meeting is being held outside the regular schedule; and (4) inform the authorized individuals of the outcome of an emergency treatment team meeting as soon as practicable. A patient can withdraw consent to have others participate at any time either orally or in writing.

The bill adds that, on admission of an individual to a facility, the facility must inform the individual verbally and in plain language of the individual's rights as a patient to have a family member or other authorized individual be informed of and given the opportunity to participate in meetings with the treatment team regarding the development, review, and reassessment of the treatment plan. Additionally, the request for consent to involve family or other third parties in treatment must be conducted using a separate, plain language form.

If consent to have others participate in treatment is given, the facility must additionally provide the individual and involved third parties with (1) a model mental health advance directive form developed by MDH and (2) information on supported decision-making agreements.

Withholding Information

Under current law, a treating provider may withhold information on a patient's plan of treatment from a family member or other authorized individual if (1) in the treating provider's clinical judgment, the given consent was provided through coercive means; (2) the treating provider believes it is in the best clinical interest of the patient; or (3) the patient requests that a specific piece of the plan of treatment be withheld.

The bill repeals the ability for a treating provider to withhold information from an authorized third party if the provider believes it is in the patient's best clinical interest. Instead, the provider may withhold information if the provider makes a specified, written finding in the individual's patient record that the third party's presence is causing demonstrable emotional or physical harm to the individual.

Review and Reassessment of a Treatment Plan

Under current law, a patient or authorized individual may request that a facility review and reassess the plan of treatment if it is believed that the plan is not meeting the needs of the patient. Upon the receipt of a request for review and reassessment, specified facility staff must (1) conduct a review and reassessment of the plan of treatment; (2) communicate the results of the review and reassessment of the plan of treatment to the patient and individual who requested the review and reassessment (including an explanation of how all issues raised in the request were considered); and (3) include the request for the review and reassessment of the plan of treatment and the outcome of the review and assessment (including the explanation for that outcome) in the patient's medical records.

If a State facility does not change a treatment plan following a request for review and reassessment, the State facility must provide referral information for the Resident Grievance System. The patient or an authorized individual may (1) request a reconsideration of the review and reassessment by filing a grievance with the Resident Grievance System and (2) may appeal the reconsideration by filing a request with MDH's Healthcare System's Chief Medical Officer.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2026
caw/jc

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