



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

February 18, 2020

The Honorable Dolores G. Kelley, Chair
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401

**RE: SB 441 – Emergency Facilities List – Comprehensive Crisis Response Centers,
Crisis Stabilization Centers, and Crisis Treatment Centers – Letter of Information**

Dear Chair Kelley and Committee Members:

The Maryland Department of Health (the “Department”) submits this letter of information for Senate Bill (SB) 441 – Emergency Facilities List. SB 441 allows the Department to include comprehensive crisis response centers, crisis stabilization centers, and crisis treatment centers on a list of emergency facilities provided to local health departments, judges, and law enforcement for purposes of emergency evaluations of individuals with mental disorders and the potential involuntary admissions of those individuals.

The Department designates emergency facilities to accept individuals only when a petitioner “has reason to believe that the individual (1) has a mental disorder; and (2) presents a danger to the life or safety of the individual or of others.” Health Gen. Art. § 10-622 (a). Due to the clinical needs of patients and the due process requirements for involuntary admissions of emergency evaluatees, the Department’s emergency facilities list currently consists of only licensed general hospitals that have an emergency room.¹

Designing a comprehensive crisis system was one of the concepts explored by the Governor’s Commission to Study Mental and Behavioral Health in 2019. In January 2019, Lt. Governor Rutherford announced Executive Order 01.01.2019.06, establishing the Commission to Study Mental and Behavioral Health in Maryland. The Commission is currently studying mental and behavioral health issues in Maryland, including access to mental health services and the link between mental health issues and substance use disorders, known as co-occurrence. The Commission includes representatives from each branch of state government, representatives from the State Departments of Health, Public Safety and Correctional Services, and Human Services, as well as the Maryland State Police, the Maryland Insurance Administration, the Opioid Operational Command Center, and six members of the public with experience related to mental health.

¹ MD Code, Health - General, § 10-620(d)(2)

As discussed in the Commission’s 2019 Annual Report,²

Maryland law is interpreted to require that someone who is emergency petitioned must receive a medical evaluation in an emergency department of an acute care hospital. As noted in the Commission’s Interim Report, Maryland should update the Department of Health’s (MDH) “emergency facility” definition.

Emergency petitions are tools that allow medical professionals, law enforcement officers, and others to seek rapid evaluation of a patient in psychiatric crisis, who may be a danger to themselves or others, regarding their need for emergency treatment and possible involuntary hospitalization. Expanding the definition of a facility that can accept such patients would create additional flexibility for first responders to help people in crisis. Emergency petitions need to be reviewed and studied in the context of a crisis services system.

It is imperative that a clinical evaluation takes place by a licensed clinical professional. We need to ensure that facilities have the capability to accept these patients, as well as the appropriate staff and equipment to meet their needs. With this in mind, MDH is assessing by jurisdiction the appropriate facilities that could be incorporated into the emergency facility designation. Once this assessment is completed, MDH can keep a repository of eligible facilities that can be accessed electronically.

In order to effectuate the Commission and SB 441’s intent, the Department would need to establish standards for licensed health care facilities that wish to serve as emergency facilities. Ensuring access to mental and behavioral health care is one of the Department’s highest priorities; however, the Department must also ensure that those services are clinically appropriate and that those services respect the rights of the individual. At a minimum, a licensed facility would need to be able to provide:

- 24/7 staffing to provide comprehensive physical and behavioral care;
- the ability to provide medication over patient objection with appropriate due process protections for individuals; and
- the space and staff to provide seclusion or restraint on a 1-to-1 basis.

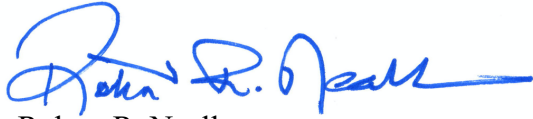
The Department would then need to create a license type that defines the services the new facilities in SB 441 must provide to qualify under the new license. The new license type would ensure that the centers serving as emergency facilities provide consistent services and care, so that emergency responders do not have to determine what services are needed and the best provider (e.g. jail, hospital, or crisis facility) to provide those services.

Due to the amount of detail and stakeholder engagement required, the Department respectfully recommends that the Commission is the best setting to continue these discussions.

² <https://governor.maryland.gov/ltgovernor/wp-content/uploads/sites/2/2020/01/MBH-Report-Final-min.pdf>

If you have additional questions, please contact Director of Governmental Affairs Webster Ye at (410) 260-3190 or webster.ye@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert R. Neall", with a long horizontal flourish extending to the right.

Robert R. Neall
Secretary