

TESTIMONY IN SUPPORT OF HOUSE BILL 1476

**Independent Oversight and Review Board for Health Care of
Inmates in State Correctional Facilities - Establishment**

DATE: March 6, 2020

FROM: Andy Cryan, Esq.

TO: Chairman Luke H. Clippinger and Members of the House Judiciary Committee

RE: Support for House Bill 1476

House Bill 1476 should pass and establish independent oversight of correctional health care because the mere existence of medical staff in Maryland's correctional facilities is inadequate to protect the constitutional right to health care. At best, it gives the medical staff unfettered discretion and autonomy while inviting prison officials to "simply bury their heads in the sand and thereby skirt liability." *Gordon v. Schilling*, 937 F.3d 348, 361 (4th Cir. 2019) (quoting *Roe v. Elyea*, 631 F.3d 843, 861-867 (7th Cir. 2011)). Consequentially, many inmates, including those with chronic illnesses, are unable to even see a doctor for over a week after submitting a sick slip. Independent correctional oversight is needed to ensure that the Constitution is treated as more than words on paper, and that inmates are treated as human beings.

As a former attorney for the Maryland Office of the Attorney General Correctional Litigation Division, I observed both the harm that the present system of health care has on inmates and society and the shortcomings of overwhelmed and understaffed medical units and prison officials. I defended both prison officials and medical professionals who mistreated and often ignored inmates cries for help. Treatments, if provided, were delayed. They did not keep statistics, or even records, on the number of sick calls received, medications provided, and outcomes. The policies *they* created were not followed. And once sued, they quickly asserted ignorance or shifted the blame.

An independent committee on correctional health care will resolve the lack of uniform reporting requirements. Neither the Maryland Code, Code of Maryland Regulations, or any Division of Correction Directive (“DCD”) mandates comprehensive reporting of correctional health care. In fact, none of these authorities even suggests that the health information required by the Maryland Health Care Commission for civilians should also be reported for inmates. *See* Md. Code Regs. 10.24.02.02; COMAR 10.32.22.03 (Mandated Reports) and COMAR 10.37.01 (Uniform Accounting and Reporting System for Hospitals and Related Institutions).

The lack of an independent committee to oversee correctional health care is permitting punishment that is repugnant to the “evolving standards of decency that mark the progress of a maturing society.” *Trop v. Dulles*, 356 U.S. 86, 101 (1958) (plurality opinion)). The Maryland General Assembly created a committee to oversee health care in civilian hospitals over *thirty-four years* ago in 1986. *See e.g.*, MD Code, Health-General, § 19-371 (Responsibility of hospital to establish advisory committee); § 19-373 (Duties of advisory committee). Yet there is still no similar committee for incarcerated individuals. Continuing to limit such medical care to civilians lacks even a shred of decency and is devolving this state beneath mere acknowledgment of the Constitution.

Denying inmates adequate medical treatment is endangering their well-being and the well-being of society. Most inmates will be released during their lives. However, without adequate health care inmates will not receive the “correction” necessary to change their behavior, and are more likely to recidivate. Any desired effect of retribution and rehabilitation will end with further harm to society. This time the victim could be one’s friend, family, or even oneself.

For the reasons stated above, House Bill 1476 should pass.