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Disability Rights Maryland

Testimony before the House Health and Government Operations Committee

March 2, 2021

House Bill 881 – Mental Health Facilities – Sexual Abuse and Harassment – Reporting and Prevention

POSITION: SUPPORT

Disability Rights Maryland (DRM) is Maryland’s designated Protection & Advocacy agency, and is federally mandated to advance the civil rights of individuals with disabilities. DRM monitors abuse, neglect, and rights violations in Maryland’s state and private psychiatric hospitals and in Residential Treatment Centers (RTCs) for youth. A large portion of our mental health-related advocacy focuses on enforcing and reforming sexual abuse response, prevention, and treatment laws and regulations designed to protect children with behavioral health disabilities from sexual abuse. We strongly support House Bill 881, which strengthens sexual abuse prevention and response requirements for Maryland youth and adults with behavioral health disabilities in inpatient psychiatric facilities.

Studies consistently confirm a 50-80% prevalence rate of sexual and physical abuse among persons who later acquire diagnoses of mental illness.* Children and adults in inpatient and institutional placements are at particular risk, since they are away from family supports and trusted adults. Maryland has not been immune to this problem, as exemplified by a Maryland RTC where several staff were indicted in 2019 for abuse of youth in their care. (That RTC closed in August 2020.) In 2016, DRM entered into a settlement agreement with the Maryland Department of Health to settle *Doe v. DHMH* (Civil Action WMN-14-3906), which required comprehensive changes to how MDH prevents and responds to sexual abuse allegations in the state facilities. HB 881 expands many of those policies and requirements to private inpatient psychiatric facilities serving adults and youth.

HB 881 strengthens and expands existing protections for adults and youth in private inpatient psychiatric and residential treatment facilities.

During the 2018 General Assembly Session, Delegate Valentino-Smith sponsored HB 1130, “Residential Treatment Centers – Mandatory Reporting of Inappropriate Sexual Behavior,” which passed unanimously. The bill (now law, at Health General § 19-347.1) requires Maryland’s private residential treatment centers (RTCs) for youth to report allegations of sexual abuse to the Behavioral Health Administration or Developmental Disabilities Administrations, as appropriate, the Maryland Office of Health Care Quality, and Disability Rights Maryland (DRM), whenever a staff member observes, receives a complaint or has reason to believe that an individual has been subjected to inappropriate sexual behavior. An RTC is a psychiatric institution that provides campus-based intensive and extensive evaluation and treatment of children and adolescents with severe and chronic emotional disabilities who require self-contained therapeutic, educational, and recreational program in a residential setting. Maryland has 6 RTCs that are licensed by the Maryland Department of Health. Two facilities serve only

boys, and one serves younger children ages 5-13. The other RTCs are co-ed and serve adolescents.

Prior to HB 1130's passage, DRM, as the state's federally mandated protection and advocacy organization for individuals with disabilities, was already required to receive reports of sexual abuse from Maryland's two **state-operated** RTCs. Now, DRM receives reports from **all** Maryland RTCs. Since HB 1130 went into effect on July 1, 2018, DRM has received over 40 reports of sexual abuse from RTCs, including approximately 33 from the private RTCs that are newly required to report. It is likely that DRM would not have been aware of the reports without the passage of HB 1130, or would have found out about them only incidentally, when monitoring the facilities, making it difficult to timely investigate and ensure the safety of the children involved. These numbers demonstrate that sexual abuse of youth with behavioral disabilities in Maryland is likely more prevalent than we had anticipated. Further, they point to the need to proactively address sexual abuse by strengthening statutory protections, as HB 881 does. When DRM receives reports of sexual abuse, whether from the state hospitals or the RTCs, we follow up to meet with the individual, ensure they are safe and that the facility has responded appropriately to the report of sexual abuse.

About a dozen of the reports have been extremely serious and involved sexual abuse between children and staff or forcible sexual assault. In such cases, DRM investigates to ensure that the victim is protected, and works collaboratively with the individual (and his or her parent or guardian, as appropriate), to ensure they receive timely medical treatment, including counseling, understand their legal rights, and that there is appropriate follow-up and response from the facility. This may involve changing policies, improving staff training, ensuring that culpable staff are terminated and prosecuted, and engaging consultants to determine how changes can be made to ensure that such incidents are prevented in the future.

In June 2019, DRM received over a dozen reports of sexual abuse of adolescents at one Maryland RTC, reports we received in response to the passage of HB 1130. These reported allegations, which later led to the arrests of three of the RTC's staff, are disturbing. The RTC provided residential and day school programs to youth ages 12 to 21 with behavioral and emotional disabilities, and included a program for children who have been sexually exploited. According to the allegations and reports DRM received, three staff at the RTC had been sexually assaulting residential youth from late 2018 to the early summer of 2019. The assaults took place both on and off campus by the staff members in charge of their daily care. The three staff appeared to be operating in concert with one another and to be targeting children in the program for sexually exploited youth. In addition to the staff-on-youth sexual assault reports, DRM also received notifications of peer-on-peer sexual abuse, suggested a broader culture of sexual abuse within the institution. Along with other agencies, DRM provided support to the individual victims of sexual abuse at the RTC and worked with the RTC to address systemic reforms until it closed in August of 2020.

The sexual assaults at this RTC illustrate why HB 881 is needed. HB 881 requires increased protections for youth and adults with behavioral health disabilities in institutional settings such as the RTC described, a population among the most vulnerable for sexual abuse. In addition to reporting obligations, the bill will expand required protections to proactively and systemically

work toward prevention of sexual abuse and sexual harassment and address trauma from past abuse, while providing appropriate trauma-informed responses and care. Had these protections been in place, it is possible that the rampant sexual abuse alleged to have occurred at the RTC, may have been prevented or caught and addressed earlier.

HB 881, if passed, will be one significant step forward in strengthening much-needed protections for youth and adults with behavioral and emotional disabilities in Maryland.

For the reasons stated above, we urge that House Bill 881 be given a favorable report. For more information, please contact Luciene Parsley, Esq. at 410-727-6352, ext 2494 or lucienep@disabilityrightsmd.org.

* Cavanagh, M, Read, J. and New, B. (2004). Sexual abuse inquiry and response: A New Zealand training programme. *New Zealand Journal of Psychology*, 33(3), 137-144. Breyer, 1987; Beck & Van der Kolk, 1987; Rose, et al, 1992; Craine, et al, 1988; Stefan, 1996).