



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

March 19, 2021

The Honorable Shane E. Pendergrass
Chair, House Health and Government Operations Committee
241 House Office Building
Annapolis, MD 21401-1991

RE: House Bill 1344—Mental Health Law—Reform of Laws and Delivery of Service - Letter of Information

Dear Chair Pendergrass and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of information for House Bill (HB) 1344—Mental Health Law—Reform of Laws and Delivery of Service.

Health General Article 10-601 et. seq. is the process for determining if an individual should be involuntarily committed to a psychiatric hospital when a determination has been made that the individual is a "danger to the individual's life or safety of others."

MDH recognizes the need for the State to "develop a clear and unambiguous standard for determining when individuals in crisis pose a danger to themselves and others." As a part of the Commission to Study Mental and Behavioral Health in Maryland (Commission), chaired by the Lieutenant Governor, representatives from the Behavioral Health Administration (BHA) of MDH have discussed and heard public testimony on this topic. Forums like the Commission allow stakeholder input as the definition is refined.

While MDH is supportive of the intent of the bill, the definition as written is too broad. Concurrently to the work done as a part of the Commission, BHA has convened an Involuntary Commitment Stakeholders Workgroup (Workgroup) to review and revise the definition of "danger to self and others." The Workgroup is comprised of representatives from the Commission to Study Mental and Behavioral Health's Youth and Family subcommittee, the Maryland Department of Disabilities, BHA, individuals with lived experiences, family, advocacy organizations, hospitals, courts, forensic psychiatrists, and behavioral health provider organizations. The Workgroup is examining involuntary commitment statutes from other states, reviewing recommendations from advocacy organizations, and considering the potential disparate impact of any changes. We anticipate that this work will conclude prior to the next legislative session.

With the current definition, there are occasions where dangerousness is limited only to imminent physical danger to one's self. This approach does not take into consideration other contributing factors such as an individual's life history and circumstances or certain symptoms of that

individual's mental illness that may increase an individual's risk of harmful acts. These factors must be balanced with an individual's constitutional rights to due process and their personal liberty interests, which are affected by involuntary commitment, as well as their right to receive treatment in the least restrictive environment.

MDH is supportive of continuing to work towards a clear and workable definition to clarify the meaning of danger to the life or safety of the individual or others. The work currently taking place through the Commission and Workgroup is essential to developing this. However, the definition of "danger to the life or safety of the individual or others," as proposed in HB 1344, is very broad and does not provide enough safeguards to prevent unnecessary commitments, including situations when hospitalization is not the least restrictive setting in which the individual could receive treatment.

I hope this information is useful. If you would like to discuss this further, please do not hesitate to contact me at webster.ye@maryland.gov / (410) 260-3190 or Heather Shek, Director of Governmental Affairs at heather.shek@maryland.gov or at the same phone number.

Sincerely,

A handwritten signature in blue ink, appearing to read "Webster Ye", with a stylized flourish at the end.

Webster Ye
Assistant Secretary, Health Policy