Testimony on HB 406
Date: February 15, 2022
From: Schizophrenia & Psychosis Action Alliance,
Evelyn Burton, Maryland Advocacy Chair
Position: Support with amendments

The Maryland chapter of the Schizophrenia & Psychosis Action Alliance (SPAA), a non-profit supporting and advocating for individuals with psychotic illnesses and their families, recognizes the problem of Emergency Department boarding and lack of appropriate residential programs for children in need of assistance (CINA). However, HB406 needs extensive amendments before we could support it. As written, HB406 would create barriers to access for in-patient psychiatric care for these children when needed. It would also prevent a judge from making a decision based on all current and pertinent information. It requires unreasonable discharge standards standards and finally, may conflict with a hospital's obligation to follow federal legislation (EMTALA) regarding the discharge and transfer of emergency department patients.

We do support establishment of a Foster Children Support Fund and a Task Force to Examine the Placement of Foster Children in Emergency Departments to collect data and study the issue more wholistically and make recommendations ways to address the issue with creating barriers to care, including recommendations on the creation of types and numbers of residential facilities and services needed.

We have specific concerns with the following sections and recommend they be changed or deleted as indicated below:

Page 3, Lines 7-8: As in hospital commitment hearings before an administrative law judge, the court should be able to consider all the evidence, not only the evidence by medical professionals. At those hearings, evidence by others such as family members, police, social workers, etc is also considered. It should be noted that Health General §10-632 does not place any limits on those presenting evidence at a hospital commitment hearing. For example medical evidence may be presented by a psychiatric nurse who is the attending medical practitioner. We recommend these line 7 be changed as follows: "evidence, INCLUDING EVIDENCE PROVIDED BY A LICENSED PSYCHIATRIST, PSYCHOLOGIST OR PSYCHIATRIC NURSE WHO HAS EXAMINED THE CHILD WITHIN THE PREVIOUS 48 HOURS that:"

Page 3, Lines 16 through 28: Delete all of these lines.

These provisions would limit the judge's ability to consider all pertinent information presented and, in some instances, prevent him from following the legislative intent of allowing the judge to order inpatient care when criteria 1-4 are met, including when inpatient care is needed for the protection of the child or others. In addition, some of the terms are vague and undefined, including "clinical staff" and "facility". A judge should be able to take into

consideration the finding of administration law judge, however it should not limit the judge's decision. Since there is no definition of the danger standard for commitment, the interpretations among administration law judges vary greatly. For example, some administration law judges only consider dangerous behavior that relates to actions in the hospital and not to behaviors that occurred outside the hospital. The judge needs to take all evidence into consideration.

We do not support placement of children in a hospital, emergency facility, or an inpatient facility merely because the Department of Health cannot find a suitable out-of-home placement for a CINA. However, this statement is not needed because if that were the only reason for placement, the other required criteria would not be met.

Page 4, lines 15-18: A psychiatric examination should also be required where appropriate. Add "AND IF APPROPRIATE A PSYCHIATRIC EXAM," AFTER "MEDICAL".

Page 4, Lines 19-23: This section should be deleted. It is a barrier to obtaining emergency care for a child that needs inpatient psychiatric care. First of all, the term "medical evaluation" is undefined. However, more importantly, if in the opinion of any professional eligible to EP, at any time, the child meets the requirements for an EP (has a mental disorder and presents a danger to self or others), that professional should not be prohibited from executing an EP, regardless of what an examination by someone else concluded 7 days ago. This would preclude treatment for children who were treated within the previous 7 days but released before they were stable or it was erroneously found 7 days ago that further treatment was not medically necessary.

Page 4, lines24-28: Four hours is an unreasonably short time to arrange for discharge. It was noted in testimony for HB 1832 that the Department of Health is not required to be seeking arrangements for placements on an ongoing basis and there is a constant need for suitable placements for children no longer in need of inpatient treatment.

Page7-8 Section 10-624 (C). Delete all. We have concerns that this section would violate federal law requiring emergency facilities to stabilize or transfer a patient to appropriate care.