

SB 994 Testimony.pdf

Uploaded by: Adelaide Eckardt

Position: FAV

ADDIE C. ECKARDT

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Budget and Taxation Committee

Health and Human Services
Subcommittee

Joint Committees

Administrative, Executive,
and Legislative Review

Audit

Children, Youth, and Families

Fair Practices and
State Personnel Oversight

Pensions

THE SENATE OF MARYLAND

ANNAPOLIS, MARYLAND 21401

District Office

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Testimony for Senate Bill 994

Public Health – Mental Health Advance Directives – Awareness and Statewide Database

Finance Committee

March 22, 2022

Madame Chair Kelley and Honorable Members of the Committee:

Thank you for the opportunity to present **Senate Bill 994 – Public Health – Mental Health Advance Directives – Awareness and Statewide Database**

Mental health has become increasingly important with the rise of fatal suicides and increase in diagnoses within the state of Maryland. This bill aims to help this crisis by establishing and promoting a statewide database of Mental Health Advance Directives for citizens of Maryland to access.

Senate Bill 994 would require the Maryland Department of Health to implement and develop a public awareness campaign to encourage the use of Mental Health Advance Directives in the state. This is necessary in order to effectively promote the new initiatives that have been established to aid in the current mental health crisis. This campaign will include awareness initiatives to encourage and support outreach efforts by personal and governmental agencies including mental healthcare providers, the Department of Public Safety and Correctional Services, the Department of Veteran Affairs, and more.

This bill will greatly benefit all citizens of Maryland in need of mental healthcare and support. Thank you for your consideration and I respectfully ask for a favorable report of Senate Bill 994.

Best regards,

A handwritten signature in black ink that reads "Addie C. Eckardt".

Senator Addie C. Eckardt

MCF_Fav_SB 994.pdf

Uploaded by: Ann Geddes

Position: FAV



SB 994 – Public Health – Mental Health Advance Directives – Awareness and Statewide Database

Committee: Finance

Date: March 22, 2022

POSITION: Support

The Maryland Coalition of Families: Maryland Coalition of Families (MCF) helps families who care for a loved one with behavioral health needs. Using personal experience, our staff provide one-to-one peer support and navigation services to family members with a child, youth or adult with a mental health, substance use or gambling issue.

MCF enthusiastically supports SB 994.

For people with Serious Mental Illness, a psychiatric advance directive is an empowering tool that allows them to state their wishes in the event that they be deemed incapable of making sound decisions themselves. Psychiatric advance directives can prevent involuntary commitment, for an individual can feel safe knowing that they will not be subject to forced treatments contrary to their will should they be hospitalized, and therefore be more willing to consent to treatment voluntarily.

Families too benefit from having a loved one complete a psychiatric advance directive, for, when a person with serious mental illness is well, they can name a family member as a health care agent, thereby allowing a family member to participate in their loved one's treatment. So often, because of HIPAA requirements, family members are kept in the dark as to what's happening with their loved one in a psychiatric crisis, much less be able to help make good decisions as to the person's care. At MCF, we advise parents of young adults to encourage their child to complete an advance directive that names their parent as their health care agent, so that the parent can be kept informed and participate in their child's care.

Unfortunately, many people don't know about psychiatric advance directives, or how to complete one in Maryland. SB 994 would address this issue, by requiring the Department of Health to develop and implement a public awareness campaign.

An impediment to the benefit of having a psychiatric advance directive is that frequently, an individual who has completed one doesn't have it filed with appropriate treating professionals or hospitals where they might be admitted. A psychiatric advance directive does little good if

no one knows about it. People with serious mental illness can be advised to disseminate their psychiatric advance directive to loved ones and to hospitals where they've been a patient before, but often do not take this step. Moreover, even if they do, they may end up in a hospital where they have not been a patient before, and the treating professionals may not know who to contact to inquire about the existence of a psychiatric advance directive. HB 994 addresses this problem by requiring that a statewide database be maintained where psychiatric advance directives are filed. A treating professional need simply search the database to find the individual's advance directive and the name of any health care agent that had been appointed.

HB 994 would go a long way to improving the lives of people with serious mental illness. Therefore we urge a favorable report.

Contact: Ann Geddes
Director of Public Policy
The Maryland Coalition of Families
10632 Little Patuxent Parkway, Suite 234
Columbia, Maryland 21044
Phone: 443-926-3396
ageddes@mdcoalition.org

SB 994 Mental Health Advance Directives_ Letter of

Uploaded by: Ben Steffen

Position: FAV



March 22, 2022

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

RE: SB 994 - Public Health - Mental Health Advance Directives - Awareness and Statewide Database

Dear Chair Kelley:

The Maryland Health Care Commission (“MHCC”) is submitting this letter of information on SB 994 - *Public Health - Mental Health Advance Directives - Awareness and Statewide Database* (“SB 994”).

SB 994 requires the Maryland Department of Health to develop and implement a public awareness campaign to encourage the use of mental health advance directives in the State. The Maryland Behavioral Health Crisis Response System in the Behavioral Health Administration must establish and maintain a centralized statewide database of mental health advance directives.

SB 994 is well-intentioned but misaligned with HB 1073/SB 824 *Health – Accessibility of Electronic Advance Care Planning Documents* that is already moving in the House and Senate. HB 1073/SB 824 is comprehensive legislation that necessitates activities to be completed by health care facilities, nursing homes, assisted living facilities, carriers, managed care organizations, ambulatory providers, and select State agencies. These activities will lead to an increase in the number of provider-patient discussions, improve documentation rates, and the ability for providers to retrieve documented patient preferences, including a health care agent.

HB 1073/SB 824 is the result of the work by the Advance Directives Workgroup (workgroup) that met over the interim. The MHCC formed this workgroup at the request of the Chair of the Health and Government Operations Committee Chair. The workgroup developed consensus recommendations for legislation that could be considered in the 2022 legislative session. The workgroup was comprised of over 40 stakeholders representing consumers, providers, nursing homes, hospice and palliative care, carriers, technology vendors, the Maryland Insurance Administration, Maryland Department of Transportation,

and the legislature. The workgroup met from late summer through the early winter. HB 1073/SB 824 includes recommendations contained in the workgroup report.¹

Members of the workgroup endorsed the principle that advance care planning, including the creation of an advance directive, is an important responsibility for all adults, regardless of their current health status. No workgroup member, but especially the experts on emergency and end-of-life care, accepted the idea that advance care planning should be directed only at individuals with a particular health condition.

The MHCC believes that the requirements in HB 1073/SB 824 will increase adoption and use of electronic advance directives statewide. HB 1073/SB 824 supports the common theme that came from many workgroup advocates, which is that all stakeholders have a role to play if advance care planning is to be embedded in what are routine and expected health care discussions. Most important, passage of HB 1073/SB 824 will encourage all adults to conduct advance care planning.

HB 1467 will further stigmatize people with mental illness. Stigmas, prejudice, and discrimination against people with mental illness still exist and are well-documented in research literature and clinical practice.² A standalone advance directives database for people with mental illness will prolong stigmas about individuals and families impacted by mental illness.³ Advocacy organizations may view HB 1467 as continuing longstanding biases and misconceptions about mental illness even among EMS and health care providers.

I hope this information is useful. If you would like to discuss this further, please contact Ben Steffen at ben.steffen@maryland.gov.

Sincerely,



Andrew Pollak
Chair, MHCC



Ben Steffen
Executive Director, MHCC

cc: Tracey DeShields, Director, Policy Development and External Affairs, MHCC

¹ *Advance Directives Workgroup Report*, Maryland Health Care Commission, January 2022. Available at: www.mhcc.maryland.gov/mhcc/pages/hit/hit_advancedirectives/documents/hit_adv_directives_wkgrp.pdf.

² Stigma, Prejudice and Discrimination Against People with Mental Illness, American Psychiatric Association. Available at: www.psychiatry.org/patients-families/stigma-and-discrimination.

³ *Psychiatry's myopia—reclaiming the social, cultural, and psychological in the psychiatric gaze*. Braslow JT, Brekke JS, Levenson J. *JAMA Psychiatry*. 2020;78(4):349-350. Available at: www.jamanetwork.com/journals/jamapsychiatry/article-abstract/2770563.

OPD Written Testimony SB994.pdf

Uploaded by: Carroll McCabe

Position: FAV



PAUL DEWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: SB994 – Mental Health Advance Directives – Awareness and Statewide Database

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 03/21/2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 994.

Many Marylanders want to prepare themselves for situations in which they are unable to make their own mental healthcare decisions, and mental health advance directives allow individuals to preserve their autonomy by stating their preferences for care and treatment before the need arises. The Mental Health Division of the Office of the Public Defender is compelled to support the stated interests of our clients when they are in such situations. However, we have observed that many of our clients either: (1) do not have mental health advance directives in place that make clear their interests, (2) have purported advance directives that do not meet the legal standard and are therefore unenforceable, or (3) wish to revoke an existing advance directive but are unsure of how to proceed. In each of these situations, the lack of information about and access to mental health advance directives has created confusion for our clients as well as hospital staff, resulting in our clients' wishes not being fully represented.

As Public Defenders, we are committed to clarifying our clients' interests so that we can be the zealous advocates that our clients deserve. SB994 will allow our clients to be more informed and therefore more empowered when making decisions about their mental healthcare. Likewise, SB994 enables our office to better represent the interests of our clients when they are faced with situations where they are unable to make such decisions.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB994.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Carroll McCabe

**Chief Attorney, Mental Health Division
Maryland Office of the Public Defender
200 Washington Avenue, Suite 300
Towson, Maryland 21204
Office: 410-494-8130**

SB0994 MH Advance Directives.pdf

Uploaded by: Dan Martin

Position: FAV

**Senate Bill 994 Public Health - Mental Health Advance Directives –
Awareness and Statewide Database**

Finance Committee

March 22, 2022

Position: SUPPORT

The Mental Health Association of Maryland is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health, mental illness and substance use. We appreciate this opportunity to present testimony in support of Senate Bill 994.

SB 994 requires the Maryland Department of Health to develop and implement a public awareness campaign to encourage the use of mental health advance directives. It also requires the establishment of a readily accessible centralized database of mental health advance directives to assist providers in responding to individuals experiencing a behavioral health crisis.

A mental health advance directive (MHAD) is a legal document that allows a person with a mental illness to state their wishes and preferences in advance of a mental health crisis. These documents provide for more patient-centered care and can help resolve crises more quickly, appropriately, and without coercion. They allow individuals to clarify treatment preferences and crisis planning and often include and involve family members and social support networks. MHADs may include specific wishes regarding treatment; preferred hospitals and service providers; persons authorized to make health decisions and with whom information may be shared; alerts to allergies, adverse reactions, and medication issues; desired visitors; and more.

Mental Health Association of Maryland offers a number of resources and tools on its website to assist individuals in learning about and effectuating an MHAD. This includes FAQs, instructions, and a downloadable MHAD template that was developed in consultation with the Maryland Department of Health, providers, consumers, and advocacy groups.¹

Despite the benefits of MHADs, widespread support for their use, and a variety of studies recommending that clinicians facilitate the completion of these documents, the rate of usage remains frustratingly low.² SB 994 will help by increasing awareness of the availability and benefits of MHADs and by making it easier for clinicians to access them. The bill promotes patient autonomy and patient-centered care, and it will facilitate a more informed and open dialogue between patients and their treatment providers.

For these reasons, Mental Health Association of Maryland supports Senate Bill 994 and urges a favorable report.

¹ <https://www.mhamd.org/information-and-help/adults/advance-directives/#:~:text=A%20Mental%20Health%20Advance%20Directive,of%20a%20mental%20health%20crisis>

² Table B, Thomas J, Brown VA. Psychiatric Advance Directives as an Ethical Communication Tool: An Analysis of Definitions. J Clin Ethics. 2020 Winter;31(4):353-363. PMID: 33259340.

For more information, please contact Dan Martin at (410) 978-8865

SB 994_MH Advance Directives - BHSB_FAVORABLE.pdf

Uploaded by: Dan Rabbitt

Position: FAV



March 22, 2022

**Senate Finance Committee
TESTIMONY IN SUPPORT**

SB 994 – Public Health - Mental Health Advance Directives - Awareness and Statewide Database

Behavioral Health System Baltimore (BHSB) is a nonprofit organization that serves as the local behavioral health authority (LBHA) for Baltimore City. BHSB works to increase access to a full range of quality behavioral health (mental health and substance use) services and advocates for innovative approaches to prevention, early intervention, treatment and recovery for individuals, families, and communities. Baltimore City represents nearly 35 percent of the public behavioral health system in Maryland, serving over 78,000 people with mental illness and substance use disorders (collectively referred to as “behavioral health”) annually.

Behavioral Health System Baltimore supports SB 994 – Public Health - Mental Health Advance Directives - Awareness and Statewide Database. This bill would direct the Maryland Department of Health to develop and implement a mental health advance directive (MHAD) public awareness campaign and statewide database. These initiatives would promote the use of MHAD and improve access to these plans, improving the care and well-being of Marylanders struggling with mental illness.

Much like other types of advance directives, MHADs are legal documents providing instructions on an individual’s treatment preferences. These plans are developed when an individual is stable and provide direction on preferred medications, preferred providers, and treatments to avoid if a person experiences a behavioral health crisis and is unable to direct their own care. Individuals who draft MHADs tend to experience significant improvement in their working alliance with their clinicians, fewer coercive crisis interventions, better correspondence between preferred and prescribed medications over time, and increased perception that their personal needs for mental health services are being met.¹

Despite the benefits of MHADs, these tools are not widely used. A public awareness campaign conducted by the state could help promote the use of these tools and improve the care of those experiencing a mental health crisis. Coercive treatment or treatments that an individual has had poor experiences with only add to the trauma of a mental health crisis and should be avoided if possible. MHADs are an important tool to avoid such undesirable outcomes.

A statewide database would also help to improve provider access to these documents. The legislation does not provide much detail about how MHADs are added to the database, how providers access the documents, or what privacy safeguards will be put in place. BHSB sees the value of the database but urges the state to be thoughtful in designing such a system. **We urge a favorable report on SB 994.**

For more information, please contact BHSB Policy Director Dan Rabbitt at 443-401-6142

Endnotes:

¹ SAMHSA. *A Practical Guide to Psychiatric Advance Directives*. Available at https://www.samhsa.gov/sites/default/files/a_practical_guide_to_psychiatric_advance_directives.pdf.

NAMI - SB 994 - MHAD - NAMI Support.pdf

Uploaded by: Josh Howe

Position: FAV

SB 994 – Public Health - Mental Health Advance Directives - Awareness and Statewide Database

FAVORABLE

Chair and Members of the Committee

The National Alliance on Mental Illness, Maryland and our 11 local affiliates across the state represent a statewide network of more than 45,000 families, individuals, community-based organizations, and service providers. NAMI Maryland provides education, support and advocacy for persons with mental illnesses, their families and the wider community.

SB 994 requires that the Maryland Department of Health (MDH) develop and implement a public awareness campaign to encourage the use of mental health advance directives in the State. The campaign would include awareness initiatives to encourage and support outreach efforts by state and local agencies to inform present or future recipients of mental health services and members of their families, health care providers, and other behavioral health care partners regarding mental health advance directives. The Maryland Behavioral Health Crisis Response System within the Behavioral Health Administration must develop and maintain a centralized statewide database of mental health advance directives that can be readily accessed to assist responses to behavioral health crises and the provisions of mental health services.

NAMI Maryland believes that all people with mental health conditions deserve access to supports that promote wellness. We support public policies and laws that encourage the development and use of mental health advance directives (MHAD). Maryland is one of the 25 states that outlines the contents and process for establishing a MHAD (MD Health Article § 5-602.1.)

Establishing a data base for MHADs allow for a better crisis response from all crisis responders that have access to it.

- Mental health advance directives are legal documents that allows people with mental illness to state their preferences for treatment in advance of a mental health crisis.
- MHADs help an individual with mental illness preserve their autonomy while ensuring the right care at the right time.
- People who [complete](#) MHADs are more likely to work collaboratively with their clinicians, [experience](#) fewer coercive crisis interventions, and feel that their personal needs for mental health services are being met.
- When MHADs are used correctly, medical providers, local hospitals, police departments and caregivers can provide care that is aligned with an individual's preference.
- All states should have laws that allow mental health advance directives in order to empower people with mental illness and support a path to recovery.
- Policies that encourage the use of MHADs, and prioritize including MHADs in routine care, can help people with mental illness protect their autonomy in a crisis.

DRM Testimony in Support of SB994.pdf

Uploaded by: Karen Foxman

Position: FAV

**Senate Bill 994 - Public Health - Mental Health Advance Directives
Awareness and Statewide Database
Before the Senate Finance Committee
March 22, 2022
TESTIMONY IN SUPPORT**

Disability Rights Maryland (DRM) is Maryland's designated Protection & Advocacy agency, and is federally mandated to defend and advance the civil rights of individuals with disabilities. In particular, DRM supports the rights of individuals with disabilities to receive appropriate supports and services to live safe and meaningful lives in their communities.

Disability Rights Maryland supports SB 994 because it would enhance the ability of individuals with psychiatric disabilities to exercise autonomy over their mental health care during a behavioral health crisis. While advance directives are legal documents that have been recognized in Maryland for many years, mental health advance directives are not accessible in a database in the same way as are advanced directives for somatic care. SB 994 would create a centralized database, thereby establishing parity between physical health and mental health regarding an individual's ability to have their treatment choices honored.

Autonomy over treatment choices is particularly important for individuals with mental health disabilities. Unfortunately, many of these individuals have trauma histories, and for many, their trauma is directly related to past mental health treatment. A mental health advance directive provides the opportunity for an individual to describe past experiences or encounters, such as sexual assault, or restraints, that can facilitate a trauma-informed response to a crisis. By raising awareness and creating a centralized database, SB 994 will foster a system in which individuals have the confidence to assert their wishes regarding their mental health care and the assurance that those directives will be honored. This will encourage them to seek the help they need, as opposed to avoiding it, out of fear of being retraumatized and experiencing adverse treatment.

In addition to incentivizing those with trauma histories to seek treatment, mental health advance directives enable individuals to express their treatment preferences regarding medications clearly. This control over medication preferences is critical if an individual has experienced an adverse reaction to a medication in the past, or could have one due to a medical condition. The ability to identify a health care proxy, support person, and preferred mental health professionals, programs, and facilities in an advance directive further empowers an individual with a psychiatric disability and a trauma history. A centralized database will make this information accessible, while also keeping it confidential.

The COVID-19 pandemic has increased the need for mental health treatment and crisis services in Maryland. A key component of SB 994 mandates the Maryland Department of Health to develop and implement a public awareness campaign targeting recipients of mental health services and their families, providers, first responders, and a wide range of community groups, including but not limited to the police, local behavioral health authorities, facilities, and religious organizations. Raising awareness of advance mental health directives throughout communities will increase the ability of Marylanders with mental health disabilities to live safe and productive lives in their communities.

For these reasons, **Disability Rights Maryland urges a favorable outcome to Senate Bill 994.** For more information, please contact Karen Foxman, Esq., at (410) 727-6352 ext. 2477 or KarenF@DisabilityRightsMD.org.

2022 - SB994 - FAV - Advance Directives - OOOMD.pd

Uploaded by: Michelle Livshin

Position: FAV



On Our Own of Maryland, Inc.
7310 Esquire Court, Mailbox 14
Elkridge, MD 21075

Phone 410.540.9020
Fax 410.540.9024
onourownmd.org

WRITTEN TESTIMONY IN SUPPORT OF
Senate Bill 994: Public Health - Mental Health Advance Directives -
Awareness and Statewide Database
Finance Committee, Senate
March 22, 2022

Thank you Chair Kelley, Vice-Chair Feldman, and committee members for your dedication to improving the quality and accessibility of healthcare services for all Marylanders. On Our Own of Maryland (OOOMD) is a statewide behavioral health (BH) education and advocacy organization, operating for 30 years by and for people with lived experience of mental health and substance use challenges. Our network of 20+ affiliated peer-operated Wellness & Recovery Centers throughout the state offer free, voluntary recovery support services to 5,000+ community members with mental health and substance use challenges.

OOOMD is in strong support of SB 994, which would require the Behavioral Health Administration to create a public awareness campaign to promote the use of Mental Health Advance Directives (MHADs), and establish a centralized database of MHADs to improve efficient access to these vital documents.

Maryland law states that individuals have the right to make decisions regarding treatment in advance, including mental health treatment decisions, through the process of creating an advance directive.¹ MHADs include important medical history, specific guidance on acceptance/refusal of certain types of treatment (e.g. medication, modalities, treatment settings), and appointment of a health care agent to legally make treatment decisions on their behalf. MHADs may also include helpful support information, such as effective self-help practices and delegated responsibilities for the care of family members or pets.

MHADs protect autonomy and prevent unintended harm or trauma during a mental health crisis. The process of creating a MHAD empowers individuals who live with significant mental health challenges to thoughtfully plan and express what works for them, what is harmful or should be avoided, and who to contact in an emergency, therefore significantly improving the quality of care they receive. MHADs have also been shown to increase treatment adherence and even improve the patient-provider relationship.²

Unfortunately, there are significant barriers to effectively and efficiently completing and utilizing MHADs. There is limited awareness about this tool among the general public and even behavioral health professionals, and the process of completing a legally-sufficient MHAD is complicated. Once the document is completed, there is confusion and concern about how and when clinicians can become aware of and appropriately access MHADs in time-sensitive or emergency circumstances.³

¹ Maryland Department of Health & Mental Hygiene. Advance Directive for Mental Health Treatment. <https://www.wmhs.com/wp-content/uploads/2018/04/md-mental-health-advance-directive.pdf>

² Elbogen EB, Van Dorn R, Swanson JW, Swartz MS, Ferron J, Wagner HR, Wilder C (2007). Effectively Implementing Psychiatric Advance Directives to Promote Self-Determination of Treatment Among People with Mental Illness. Psychol Public Policy Law. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3816514/>

³ Shields LS, Pathare S, van der Ham AJ, Bunders J. A review of barriers to using psychiatric advance directives in clinical practice. Adm Policy Ment Health. 2014 Nov;41(6):753-66. <https://link.springer.com/article/10.1007/s10488-013-0523-3>

In Maryland, there is currently no centralized or standardized process for making MHADs available to any relevant treatment provider who may be involved in responding to a mental health-related emergency. Instead, contact must somehow be made with a loved one or other provider in possession of the MHAD. This lack of ready access means MHADs are more likely to be ignored, or critical time and resources may be lost in the attempt to obtain the MHAD.

The process proposed through this bill would increase awareness and active use of MHADs. However, we caution that the protection of confidential medical information must be scrupulously maintained. Stigmatizing attitudes about mental and behavioral health conditions can also create very real harms and barriers to care. We strongly recommend stakeholder involvement in the design of protocols for centralized storage of MHADs, especially people with lived experience of a mental health crisis in which a MHAD was or could have been used. Additionally, we hope that the Department will seek to enhance current Electronic Medical Record systems already in place, as opposed to creating a new and separate software system that would require not just development costs, but training on implementation and use. The goal of this bill is to reduce barriers to accessing MHADs, and so we encourage building on technological solutions that are currently actively used in emergency and behavioral health treatment settings.

MHADs help to protect individuals' safety, honor their choices, and avoid preventable harm and traumas. **We urge you to vote in favor of SB 994.**

TESTIMONY.pdf

Uploaded by: Vanessa Brooks

Position: FAV

TESTIMONY IN SUPPORT OF S.B. 994

My name is Vanessa Brooks. I am a constituent in Baltimore County, Maryland, and the parent of an adult child with a mental health diagnosis.

I am writing in support of the bill S.B. 994 --
Public Health -Mental Health Advance Directives-Awareness and Statewide Database

I am in favor of the bill for the following reasons:

- 1) Advance directives are part of current law to deal with future health care issues, but their use is neither widely promoted nor encouraged, particularly for mental health care patients. The public campaign for the use of advance directives in the case of mental health crises will better serve patients, providers and first responders who may not know how to address an individual's needs when incapacitated during a mental health crisis.
- 2) The bill allows for patients in the mental healthcare system to voluntarily elect to provide directives on their mental healthcare status, medications and/or other information that can be accessed through a database by healthcare professionals, first responders and a limited number of other public officers.
- 3) A database with the information provided by mental healthcare patients will enable mental health care professionals and first responders to provide immediately the necessary emergency care to patients based on the directive on file when the patient is in crisis or otherwise unable to articulate their mental health needs. This is especially important when such patients are a danger to themselves or to others.
- 4) A directive could have the effect of keeping an individual within the boundaries of the mental healthcare system and out of the criminal justice system if their mental health needs are known in advance of an intervention by the police or their information is accessible when first responders first engage a mental health patient in crisis.
- 5) Such a directive on file will better assist mental health care providers, public officers or first responders who may access to that individual's information on mental health care status, diagnosis, medications when notified by unrelated persons witnessing a mental healthcare patient in crisis.

I am the parent of an individual with mental healthcare needs that requires therapy, medications, as well as consistent attention to her mental healthcare needs. She has several diagnoses including autism. This legislation would benefit her in the future and clearly could have benefitted her in past circumstances. Because she is in the mental health care system, I have witnessed several incidents where access to her mental healthcare information by first responders or mental healthcare professionals could have better served her immediate needs if a directive had been accessible. I will give just one example.

In one instance my daughter was restrained by security in a public community college setting in a manner that triggered her PTSD and a mental health crisis. She was the victim of bullying

resulting in her being held by the security at a community college because of her mental distress and an outburst where her words suggested she may be suicidal. While in “custody” of college security she began to knit to calm herself down. Because she refused to comply with the security guards’ request for her to put away her knitting, her coping mechanism when distressed, the security guards held her over a table and handcuffed her behind her back. By handcuffing her the security guards triggered a fight and flight response. They called the County police who ultimately elected not to take her into custody as they determined that her reaction was reasonable based on her ability to explain how the physical handling by the security guards triggered her memory of a traumatic event, a previous assault. This could have gone very differently if she had not been able to articulate the triggering response to being handcuffed and restrained. With access to an advanced directive in an accessible database, the police could have immediately understood what type of intervention may trigger her PTSD. Under the same circumstances a less articulate or more distressed individual may have unnecessarily ended in police custody or worse, the criminal justice system.

My daughter has friends who are patients in the mental healthcare system and have telephoned my daughter when in crisis. I have on occasion had to intervene. In doing so, I have been able to provide useful information to first responders because I knew these individuals, their mental healthcare status, and circumstances. Without that knowledge I am not certain that the friend in crisis would have received the same treatment from first responders. An advance directive in a database could have the additional benefit to such individuals by enabling providers in the emergency setting to administer the appropriate medications or treatment options immediately.

Finally, a public campaign is necessary to promote and encourage mental health care patients to prepare advance directives. Such a campaign would have to emphasize that HIPAA compliance and privacy protections would apply to advance directives in a database that was limited in access and inaccessible to the public, insurance companies, or other private entities that presently require the patient’s approval for disclosure of health status and other medical information.

In conclusion, I encourage passage of S.B.994 by the Senate as the next step in improving the mental health care system for Marylanders. Accessibility of the information in the database would require protection and privacy for many people to willingly disclose the information necessary to make the database an effective tool.

Respectfully submitted,

Vanessa Brooks
14104 Woodens Ln
Reisterstown, MD

SB944.MentalHealth.AdDir.22.pdf

Uploaded by: Virginia Crespo

Position: FAV



Maryland Retired School Personnel Association

8379 Piney Orchard Parkway, Suite A • Odenton, Maryland 21113
Phone: 410.551.1517 • Email: mrspa@mrspa.org
www.mrspa.org

Senate Bill 994

In Support Of

Public Health – Mental Health Advance Directives – Awareness and Statewide Database

Senate Finance Committee

Hearing: March 22, 2022

Dear Honorable Senator Delores Kelley, Chair, and Honorable Senator Brian Feldman, Vice Chair, and distinguished Finance Committee members,

The Maryland Retired Personnel Association (MRSPA) urge your support of SB 994. It is important that attention is being paid to the increase in mental health issues and public awareness of these issues. Our members need to be informed of and encouraged to use mental health advance directives. As we age there is a greater need to address the mental health of our seniors. We believe that it is important to address these concerns while our seniors are able in order to protect them when they are no longer able to speak for themselves.

This need also applies to many Maryland citizens. A statewide database will enable those with Advanced Directives to be more confident that their wishes will be followed.

On behalf of almost 13,000 members of Maryland Retired School Personnel Association, we urge your support of SB 994.

Sincerely,

A handwritten signature in black ink that reads "George D. Denny, Jr." followed by a stylized flourish.

George D. Denny, Jr.
President

A handwritten signature in blue ink that reads "Virginia G. Crespo" in a cursive style.

Virginia G. Crespo
Legislative Aide

2 - SB 994 - FIN - MHCC - LOI.pdf

Uploaded by: State of Maryland (MD)

Position: INFO



March 22, 2022

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

RE: SB 994 - Public Health - Mental Health Advance Directives - Awareness and Statewide Database

Dear Chair Kelley and Committee Members:

The Maryland Health Care Commission (MHCC) is submitting this letter of information on SB 994 - *Public Health - Mental Health Advance Directives - Awareness and Statewide Database* (SB 994).

SB 994 requires the Maryland Department of Health to develop and implement a public awareness campaign to encourage the use of mental health advance directives in the State. The Maryland Behavioral Health Crisis Response System in the Behavioral Health Administration must establish and maintain a centralized statewide database of mental health advance directives.

SB 994 is well-intentioned but misaligned with HB 1073/SB 824 *Health – Accessibility of Electronic Advance Care Planning Documents* that is already moving in the House and Senate. HB 1073/SB 824 is comprehensive legislation that necessitates activities to be completed by health care facilities, nursing homes, assisted living facilities, carriers, managed care organizations, ambulatory providers, and select State agencies. These activities will lead to an increase in the number of provider-patient discussions, improve documentation rates, and the ability for providers to retrieve documented patient preferences, including a health care agent.

HB 1073/SB 824 is the result of the work by the Advance Directives Workgroup (workgroup) that met over the interim. The MHCC formed this workgroup at the request of the Chair of the Health and Government Operations Committee Chair. The workgroup developed consensus recommendations for legislation that could be considered in the 2022 legislative session. The workgroup was comprised of over 40 stakeholders representing consumers, providers, nursing homes, hospice and palliative care, carriers, technology vendors, the Maryland Insurance Administration, Maryland Department of Transportation, and the legislature.

The workgroup met from late summer through the early winter. HB 1073/SB 824 includes recommendations contained in the workgroup report.¹

Members of the workgroup endorsed the principle that advance care planning, including the creation of an advance directive, is an important responsibility for all adults, regardless of their current health status. No workgroup member, but especially the experts on emergency and end-of-life care, accepted the idea that advance care planning should be directed only at individuals with a particular health condition.

The MHCC believes that the requirements in HB 1073/SB 824 will increase adoption and use of electronic advance directives statewide. HB 1073/SB 824 supports the common theme that came from many workgroup advocates, which is that all stakeholders have a role to play if advance care planning is to be embedded in what are routine and expected health care discussions. Most important, passage of HB 1073/SB 824 will encourage all adults to conduct advance care planning.

SB 994 will further stigmatize people with mental illness. Stigmas, prejudice, and discrimination against people with mental illness still exist and are well-documented in research literature and clinical practice.² A standalone advance directives database for people with mental illness will prolong stigmas about individuals and families impacted by mental illness.³ Advocacy organizations may view SB 994 as continuing longstanding biases and misconceptions about mental illness, even among EMS and health care providers.

I hope this information is useful. If you would like to discuss this further, please contact Ben Steffen at ben.steffen@maryland.gov.

Sincerely,



Andrew Pollak
Chair, MHCC



Ben Steffen
Executive Director, MHCC

¹ *Advance Directives Workgroup Report*, Maryland Health Care Commission, January 2022. Available at: www.mhcc.maryland.gov/mhcc/pages/hit/hit_advancedirectives/documents/hit_adv_directives_wkgrp.pdf.

² Stigma, Prejudice and Discrimination Against People with Mental Illness, American Psychiatric Association. Available at: www.psychiatry.org/patients-families/stigma-and-discrimination.

³ *Psychiatry's myopia—reclaiming the social, cultural, and psychological in the psychiatric gaze*. Braslow JT, Brekke JS, Levenson J. *JAMA Psychiatry*. 2020;78(4):349-350. Available at: www.jamanetwork.com/journals/jamapsychiatry/article-abstract/2770563.