March 6, 2022

To: Senate Finance Committee
House Health and Government Operations Committee

Re: SB807
HB1017

There is so much wrong with these cross-filed bills, it is hard to know where to start.

Civil commitment in Maryland operates under administrative law, but this bill would place involuntary outpatient commitment, a purportedly less-restrictive intervention, into the realm of the judiciary. This disjunction sets up obvious procedural problems. Unlike the pilot in Baltimore City, the proposed model in Frederick County would be completely divorced from other involuntary mental health interventions.

There is no defined standard to be applied, nor a time horizon for the prediction that a person will become dangerous, in 10-6A-05(4). Predictions of dangerous are notoriously difficult, especially over periods longer than a few days, and should not be the basis of a year-long commitment.

Similarly, in 10-6A-05(5), there is no definition of "recent" history. In states that use involuntary outpatient commitment, there is generally a timeframe during which a respondent must demonstrate their unwillingness to engage in voluntary treatment.

In 10-6A-06(B)(1), it is unclear why a person under guardianship should ever need involuntary outpatient treatment, when the guardian is able to consent to treatment even over his/her ward's objection. In fact, involuntarily treating a ward over the guardian's objection would appear to gut guardianship law and the role of the guardian in making decisions in the ward's best interest. Similarly, in the next paragraph, involuntarily treating someone in a manner inconsistent with their previously executed advance directive renders that advance directive valueless and will cause individuals to be less likely to execute such advance directives.

I have numerous concerns about the timeframes in 10-6A-07. First, in (A)(2) there are real practical limitations of getting into court within 3 business days. Even involuntary outpatient commitment allows for 10 days for a hearing. But of more concern to me is that the various postponements could result in a haring not occurring until as long as 30 days after the initial petition – at which point any prediction of risk is of low value and validity.

In 10-6A-07(D)(3)(I), it is not clear what would constitute "reasonable efforts" or what an "appropriate facility" is. I have great concerns that individuals will be placed in jails, especially concerning as patients in need of inpatient treatment have trouble accessing inpatient beds. Given that these individuals do NOT require inpatient treatment (otherwise, they would be in the inpatient commitment pipeline), there are resource issues here, as well as potential federal or state constitutional issues attendant to such a detention.

Involuntary outpatient commitment is not a solution needed in Maryland. What is needed is a well-funded, broad based community mental health system that offers high quality treatment and rehabilitative services at varying levels of intensity that are accessible and attractive to patients.

Thank you for considering my comments. Please note that while I am a member of the Maryland Psychiatric Society, and an employee of the MSDE, these opinions are my own and may not reflect the views of these or any other organizations with which I am affiliated.

Respectfully,

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General and Forensic Psychiatrist