



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.

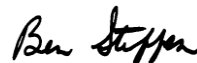
HB 1467 will further stigmatize people with mental illness. Stigmas, prejudice, and discrimination against people with mental illness still exist and are well-documented in research literature and clinical practice.² A standalone advance directives database for people with mental illness will prolong 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.