



## DEPARTMENT OF HEALTH

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

March 9, 2022

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

### **RE: HB 1160 - 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) 1160 - 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. Concurrent to the work done as a part of the Commission, BHA convened an Involuntary Commitment Stakeholders Workgroup (Workgroup) in 2021 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 examined involuntary commitment statutes from other states, reviewing recommendations from advocacy organizations, and considering the potential disparate impact of any changes. A final workgroup report was published in September 2021.<sup>1</sup>

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<sup>1</sup> Involuntary Commitment Stakeholders' Workgroup Report (September 2021), <https://health.maryland.gov/bha/Documents/Involuntary%20Commitment%20Stakeholders.Final%20report%2010.1.21.docx.pdf>

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.

The Workgroup considered the proposed language in HB 1160 (previously introduced as HB 1344 (2021)) when reviewing recommendations for modifying the definition. The ICC workgroup determined that the proposed definition, as put forth in HB 1160, does not balance the risk for danger, an individual's constitutional rights to due process, personal liberty interests, and 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 of 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 1160, 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.

If you would like to discuss this further, please contact Heather Shek, Director, Office of Governmental Affairs, at (410) 260-3190 or [heather.shek@maryland.gov](mailto:heather.shek@maryland.gov).

Sincerely,



Dennis R. Schrader  
Secretary