



## **HB 121 -- Mental Health – Treatment Plans for Individuals in Facilities – Requirements FAVORABLE**

### **Identifying the Issue**

- Under current Maryland Law, public clinics, private clinics, hospitals with inpatient psychiatric, and any other institution that provides treatment/services for individuals who have mental disorders are required to develop and periodically update a written plan of treatment for those admitted individuals.
- Under current Maryland Law, treatment plans developed by State Facilities (defined as facilities run by the MD Behavioral Health Administration) are subject to a more erroneous process for treatment plan reassessment involving the Office of Administrative hearings and Administrative Law judges.
- Individuals requiring treatment that have unique status (such as: being involved in the criminal justice system, being deemed not criminally responsible, and/or receiving treatment from State Facilities) are having issues getting timely resolution to requests for treatment plan reassessment due to current interpretations and lack of clarity in the law.
- The requirements that do exist in Maryland Law to develop and update these treatment plans are non-prescriptive and arguably ambiguous.

### **This Bill would**

- Clarify that a treatment plan required in this section of law must include the following (Part D-F of the bill):
  - A discharge date goal, long-range if necessary.
  - Reassessment of the individual's treatment plan once every 15 days for the two months after the individual is admitted, and once every 60 days for the remainder of the stay of that individual.
  - Requires the individual that is receiving treatment at the facility to be consulted about the addition of family members and/or any other person to be a part of the development, review, and reassessment of the admitted individual's treatment plan.
  - Empowers persons approved by the admitted individual to intercede and call for a reassessment of the individual's treatment plan. Requests and responses for reassessment must be in writing and included in the admitted patient's health record.
  - Specifically for State Facilities, the bill would (Part H-J of the bill):
    - Empower the admitted individual (or legal representative) to request an a treatment plan reassessment with the executive office of that facility,
    - Lays out a framework of resolution within the Office of Administrative Hearings and appeals being heard by the Circuit Court of Maryland.
- Generally empowers individuals receiving treatment and their appointed representatives to be more involved in treatment decisions as well as change treatment plans.

### **General Background**

People with mental illness deserve help, not handcuffs. Yet people with mental illness are overrepresented in our nation's jails, prisons, and state psychiatric facilities. About two in five people

who are incarcerated have a history of mental illness (37% in state and federal prisons and 44% held in local jails). This is twice the prevalence of mental illness within the overall adult population. Given these rates, America's jails and prisons have become de-facto mental health providers, at great cost to the well-being of people with mental health conditions.

People with mental illness often face challenges to navigating life in a jail, prison, or state run facilities. Behaviors related to their symptoms can put them at risk for consequences of violating facility rules, such as solitary confinement or being barred from participating in programming. This underscores the need for appropriate mental health treatment in incarcerated and State Behavioral Health Facility settings. Breakthroughs in science such as new medication and psychosocial treatment create the need for individuals receiving treatment to have their treatment plans routinely reassessed so that the individual can receive the best treatments for recovery. When reassessing treatment plans, providers should seek to limit the practice of "step therapy" in which a regiment of treatments must be followed before an individual is eligible to receive a specific medication or treatment.

### **How NAMI Talks about Treatment Plans**

- People with mental health conditions are overrepresented in our nation's jails and prisons — with many individuals becoming justice-involved due to a lack of adequate community mental health services. Types of Treatment include:
  - Psychotherapy: Often called talk therapy, psychotherapy is when a person, family, couple or group sits down and talks with a therapist or other mental health provider. Psychotherapy helps people learn about their moods, thoughts, behaviors and how they influence their lives. They also provide ways to help restructure thinking and respond to stress and other conditions.
  - Psychosocial rehabilitation: helps people develop the social, emotional and intellectual skills they need in order to live happily with the smallest amount of professional assistance they can manage. Psychosocial rehabilitation uses two strategies for intervention: learning coping skills so that they are more successful handling a stressful environment and developing resources that reduce future stressors.
  - Supported Employment: Work can be an essential step on the path to wellbeing and recovery, but challenges that come with mental illness can make it more difficult. There are programs, however, designed specifically to help with work readiness, searching for jobs and providing support in the workplace.
- Limit Step Therapy: For many people with mental illness, medication is an essential part of their treatment and can be a valuable tool in overall well-being.
  - For individuals who take medications for their mental health condition, one size does not fit all.
  - Mental health medications affect people — even those with the same diagnosis — in different ways, including varying levels of effectiveness and different side effects. Because of this, it is important that a person can access the medication that works best for them.
  - Some entities may use "step therapy" (or "fail first") policies that require a person try one or more insurer-preferred medications unsuccessfully before they receive coverage for the medication that their doctor recommends.
  - For some health conditions, people can switch to a different drug without problems. However, for people with mental health conditions, step therapy has unintended — and sometimes dangerous — consequences.

- The use of mental health medications is a decision made between an individual and their health care provider based on their symptoms, treatment history and consideration of side effects.
- When a health insurer requires step therapy, it can pose serious risks to a person taking mental health medication.
- While step therapy is often promoted as a cost-savings strategy, policies that restrict access to medications can cause negative outcomes<sup>iii</sup>, sometimes leading to emergency department visits, hospitalizations, homelessness or criminal justice involvement.
- The cost to individuals, families and communities when a person must fail on a medication before getting what they need is too high.

---

i U.S. Dept. of Justice “Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12,” <https://bjs.ojp.gov/content/pub/pdf/imhprpji1112.pdf>

ii NAMI National <https://www.nami.org/About-Mental-Illness/Treatments/Psychosocial-Treatments>

iii Medicaid Prescription Drug Policies and Medication Access and Continuity: Findings From Ten States <https://ps.psychiatryonline.org/doi/full/10.1176/ps.2009.60.5.601>

Kathryn S. Farinholt  
Executive Director  
National Alliance on Mental Illness, Maryland

**Contact:** Josh Howe  
Compass Government Relations  
[jhowe@compassadvocacy.com](mailto:jhowe@compassadvocacy.com)