



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 14, 2023

The Honorable Joseline A. Peña-Melnyk
Chair, House Health and Government Operations Committee
241 House Office Building
Annapolis, MD 21401-1991

RE: HB 1198 – Drug and Alcohol Treatment Programs – Discharge of Patients and Referral Services – Standards – Letter of Concern

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of concern on House Bill (HB) 1198 – Drug and Alcohol Treatment Programs – Discharge of Patients and Referral Services – Standards. HB 1198 requires MDH to establish very specific standards that prohibit a treatment program from discharging a patient if the patient will be homeless or reside in a homeless shelter upon discharge and needs to receive care in a residential program based on an assessment conducted or under the treatment plan, and outlines additional standards needed for discharge and transfer. While we believe the bill is well intentioned, existing regulations and standards already provide for appropriate discharge planning for patients from these treatment programs. In addition, the bill creates onerous new conditions that will result in patients being “stuck” in facilities without medical and treatment reasons, and will further limit capacity in Maryland for this important treatment. As a result, individuals who need to access these treatment programs will be added to an existing waitlist, which will only further increase wait times for admission. The bill also does not address patients who relapse or wish to discontinue participation in SUD treatment and whether providers are permitted to discharge patients who no longer participate in treatment.

When determining the appropriate level of care across a continuum, MDH uses criteria developed by the American Society of Addiction Medicine (ASAM) as the medical necessity criteria for determining the appropriate level of substance use service an individual may need. ASAM’s strength-based multidimensional assessment takes into account a patient’s needs, obstacles and liabilities, as well as their strengths, assets, resources, and support structure. The treatment programs referred to in this bill provide some of the most intensive ASAM levels of care. Current regulations and standards provide that an individual is only discharged from these programs after they are assessed to no longer need this intensive care, but can instead receive services through outpatient programs.

The language in HB 1198 and the additional criteria added, beyond what is already in place to protect patients, will make it extremely difficult to discharge some patients despite their readiness for discharge. The language in the bill will result in delays in treatment for individuals with high acuity Substance Use Disorder (SUD) who need a residential treatment level of care, while individuals who have been assessed and determined as ready for discharge remain. This could place individuals at risk for adverse events and potentially dilute the effectiveness of the treatment by commingling active treatment participants with residents.

Lastly, in the most recent §1115 waiver renewal, MDH removed any caps on length of stays for SUD treatment in an institution for mental disease (IMD). However, the §1115 waiver special terms and conditions require the State to aim for a statewide average length of stay (ALOS) of 30 days or less in residential and inpatient treatment settings. The requirement to prohibit discharges into homeless shelters will elongate patient stays at IMDs. Consistently exceeding this 30-day ALOS may jeopardize MDH's ability to draw down federal matching dollars for SUD residential services or result in the Centers for Medicaid and Medicare Services placing a hard cap on coverage for services of 45 days. Either scenario would result in increases in expenditures using State-only funds.

In conclusion, we believe that current criteria protects patients who are ready for discharge. The language in the bill, while well-intentioned, could have numerous operational, treatment, and fiscal implications on providers and the behavioral health delivery system.

If you would like to discuss this further, have any questions, please contact Megan Peters, Acting Director of Governmental Affairs, at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary