



Wes Moore, Governor · Aruna Miller, Lt. Governor · Ryan Moran, Dr.PH, Acting Secretary

March 5, 2024

The Honorable Joseline A. Peña-Melnyk
240 Taylor House Office Building
Chair, Health and Government Operations Committee
Annapolis, Maryland 21401

RE: House Bill (HB) 1289 – Drug and Alcohol Treatment Programs - Discharge of Patients and Referral Services - Standards - Letter of Opposition

Dear Chair Peña-Melnyk:

The Maryland Department of Health (Department) respectfully submits this letter of opposition to House Bill (HB) 1289 – Drug and Alcohol Treatment Programs - Discharge of Patients and Referral Services - Standards

HB 1289 requires the Department 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. The bill also outlines additional standards needed for discharge and transfer. While we believe the bill is well-intentioned, existing regulations and accreditation standards already provide for appropriate discharge planning for patients from these treatment programs.

The bill creates conditions that will result in patients remaining in facilities without meeting medical necessity criteria and/or treatment reasons. This may lead to an unintended consequence of limiting access and capacity to this critical service. 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 wish to participate in treatment. This bill may unintentionally impact a key aspect of treatment within patient-centered care by limiting self-determination and agency to make their own treatment choices.

The Department uses medical necessity criteria set forth by the American Society of Addiction Medicine (ASAM) to determine the appropriate level of care for an individual in need of substance use disorder treatment. Substance Use Disorder Treatment Providers in Maryland are required per regulation to follow ASAM's evidence-based person-centered multidimensional assessment, continuing care, and transfer/discharge approach when providing treatment for individuals with substance use-related and co-occurring disorders. Current regulations and the five approved accreditation bodies, The Joint Commission (TJC), Commission on Accreditation of Rehabilitation Facilities (CARF), Accreditation Commission for Healthcare Inc. (ACHC), Council on Accreditation (COA), and National Commission on Correctional Health Care (NCCCHC) all have standards for discharge and transition of patients that the organization base

their decision to transfer or discharge an individual from their care on the assessed physical and psychosocial needs of the individual.

The additional criteria identified in HB 1289 will make it extremely difficult for providers to appropriately discharge patients despite their readiness for discharge and/or their right of choice to refuse treatment based on the criteria that they are only permitted to discharge an individual who has identified housing. It also doesn't take into account individuals who may elect to remain homeless or live across multiple addresses.

Lastly, in the most recent §1115 waiver renewal, the Department removed any caps on the 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 the Department'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 increase expenditures using State-only funds.

In conclusion, current criteria protect patients who are ready for discharge. While well-intentioned, the bill's language could have numerous operational, treatment, and fiscal implications for providers and the behavioral health delivery system.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Ryan B. Moran". The signature is fluid and cursive, with the first name "Ryan" and last name "Moran" clearly legible.

Ryan B. Moran, Dr. P.H., MHSA
Acting Secretary