



# Sheppard Pratt

Written Testimony – Damian Lang

## House Bill 735 – Certificate of Need - Psychiatric Health Care Facilities and Psychiatric and Mental Health Services - Exemption

Health and Government Operations Committee

February 26, 2025

On behalf of Sheppard Pratt, the largest private nonprofit provider of behavioral health services in the country, I write to express our **strong opposition** to HB735, which seeks to remove psychiatric and mental health services from the Certificate of Need (CON) process. While we share the General Assembly's goal of increasing access to mental health services, eliminating the CON requirement would have **unintended and detrimental consequences** that ultimately harm patients, destabilize the existing system, and fail to address the true barriers to access.

### 1. The CON Process Ensures Quality and Financial Sustainability

The primary function of Maryland's CON process is to **ensure that new health care facilities are high-quality, financially viable, and responsive to community needs**. The process evaluates proposals based on need, financial sustainability, and potential impact on existing services. Without this oversight, **low-quality, profit-driven providers** could flood the market, leading to **substandard care, increased financial instability, and potential patient harm**.

- **Quality Assurance:** Unlike licensing, which only ensures a basic standard of care, the CON process **prevents underqualified providers from entering the market** without demonstrating their ability to sustain high-quality services. In states that have repealed CON laws, there have been instances where **new psychiatric facilities failed to meet quality standards, ultimately closing and leaving patients without care**.
- **Financial Viability:** A key component of CON review is ensuring that new psychiatric providers have a **sustainable business model**. In recent history, psychiatric providers in Maryland who attempted to establish new inpatient care withdrew their applications **because their financial models were not viable**. The CON process prevented these projects from proceeding **before wasting critical resources or jeopardizing patient care**.

### 2. Removing CON Does Not Address the Real Barriers to Access

Proponents of HB735 argue that eliminating the CON process will improve access to mental health services. However, evidence from Maryland and other states suggests otherwise. The true barriers to expanding psychiatric care are **inadequate reimbursement rates, workforce shortages, and provider reluctance to enter the field**—not the CON process.

- **Reimbursement Rates:** Behavioral health services are chronically underfunded, with **many providers operating at a financial loss**. Without increased Medicaid and private insurance reimbursements, eliminating CON will not incentivize more providers to enter the market.
- **Workforce Shortages:** Maryland, like many states, faces a severe shortage of psychiatrists, psychiatric nurses, and mental health professionals. New psychiatric facilities **cannot operate without staff**. Instead of removing CON, efforts should focus on **workforce development, loan repayment programs, and competitive salaries** to attract and retain behavioral health professionals.
- **Geographic Disparities:** While CON does not prevent providers from opening psychiatric facilities, many providers **choose not to enter underserved areas** due to financial unsustainability. Removing CON will **not ensure mental health facilities open where they are needed most**—particularly in rural areas where reimbursement challenges are most severe.

### 3. Unchecked Expansion Jeopardizes Existing Providers and Services

Maryland's psychiatric hospitals, including Sheppard Pratt, operate **on razor-thin financial margins**, subsidizing uncompensated care with limited profitable services. **For-profit entities could enter the market, cherry-pick high-margin services, and leave nonprofit and safety-net providers struggling to cover essential but less profitable care.**

- **Destabilizing the Market:** If financially unsound or poorly planned psychiatric facilities are allowed to proliferate, it could **disrupt the ability of existing hospitals to maintain their psychiatric programs**, forcing closures and further reducing access.
- **Impact on Indigent Care:** Many safety-net hospitals provide care to **uninsured and underinsured individuals**, balancing their budgets by also offering higher-margin services. If private providers enter the market without these obligations, safety-net providers could be left **with an unsustainable share of high-need patients**.

### 4. Lessons from Other States: The Risks of CON Repeal

While some states have eliminated or modified CON laws, the results **do not justify full repeal**.

- **Increased Costs:** Contrary to claims that eliminating CON reduces costs, studies show that in states that repealed CON, **health care costs increased due to redundant and underutilized facilities.**
- **Quality Concerns:** States like Pennsylvania and South Carolina, which repealed or weakened their CON laws, have experienced **influxes of low-quality providers**, with **increased patient complaints and facility closures.**
- **No Significant Increase in Access:** There is **little evidence that eliminating CON has meaningfully improved access to psychiatric care.** Instead, states like Tennessee and Washington have rejected similar legislation and **maintained targeted CON oversight for psychiatric services to ensure quality and sustainability.**[me](http://www.psychiatry.org)

Sheppard Pratt recognizes the urgent need to expand mental health services in Maryland. However, **HB735 is not the solution.** Instead of dismantling a system that ensures quality and financial sustainability, we urge policymakers to pursue **targeted solutions**, including:

- **Increased Medicaid reimbursement rates for psychiatric services** to make expansion financially feasible.
- **Investment in workforce development programs** to address psychiatric staff shortages.

For these reasons, we respectfully urge the committee to issue an **Unfavorable Report** on HB735. Thank you for your time and consideration.