



Wes Moore, Governor · Aruna Miller, Lt. Governor · Meena Seshamani, M.D., Ph.D., Secretary

February 24, 2026

The Honorable Pamela Beidle  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Senate Bill 550 —Health Care Decisions Act – Surrogate Decision Making – Mental Disorders —Letter of Concern**

Dear Chair Beidle and Committee,

The Maryland Department of Health (the Department) respectfully submits this letter of concern to Senate Bill (SB) 550 – Health Care Decisions Act – Surrogate Decision Making – Mental Disorders. SB 550 would repeal the prohibition against a surrogate authorizing treatment for a mental disorder for a person who has been certified to be incapable of making an informed decision. Repealing the prohibition would allow a surrogate to authorize any and all treatment, including electroconvulsive therapy, psychotropic medications, and hospitalization.

The Department is concerned that a complete repeal of the prohibition against a surrogate authorizing treatment for a mental disorder for a person who has been certified to be incapable of making an informed decision is overly broad. The American Medical Association’s *Code of Medical Ethics’ Opinions on Patient Decision-Making Capacity and Competence and Surrogate Decision Making* states “[e]ven when a medical condition or disorder impairs a patient’s decision-making capacity, the patient may still be able to participate in some aspects of decision making. Physicians should engage patients whose capacity is impaired in decisions involving their own care to the greatest extent possible.”<sup>1</sup>

Repealing the prohibition in its entirety would make Maryland an outlier. As of 2021, 25 states and the District of Columbia permitted surrogate decision makers to make many decisions for an incapacitated individual but routinely and specifically prohibit the authorization of electroconvulsive therapy, psychosurgery, and/or administration of neuroleptic medication.<sup>2</sup>

The Department is concerned that a broad repeal of the prohibition would permit surrogate decision makers to consent to invasive treatment on another’s behalf, perhaps with long-lasting or irreversible effect on their health or well-being.

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<sup>1</sup> *AMA J Ethics*. 2017;19(7):675-677. doi: 10.1001/journalofethics.2017.19.7.coet1-1707.

<sup>2</sup> Doyle, C. K., DeMartino, E. S., Sperry, B. P. et al. (2021). Statutes Governing Default Surrogate Decision Making for Mental Health Treatment. *Psychiatric services (Washington, D.C.)*, 72(1), 81–84. <https://doi.org/10.1176/appi.ps.201900320>

If you would like to discuss this further, please do not hesitate to contact Meghan Lynch, Director of Governmental Affairs at [meghan.lynch@maryland.gov](mailto:meghan.lynch@maryland.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Meena Seshamani', with a stylized flourish at the end.

Meena Seshamani, MD, PhD  
Secretary of Health