

Senate Judicial Proceedings Committee
SB 196 – Correctional Services – Medication Review Committee – Administration of
Psychotropic Medication to an Incarcerated Individual
January 21, 2026 at 11:00 AM
Position: Unfavorable

Disability Rights Maryland (DRM) is Maryland’s state-designated Protection and Advocacy organization, with responsibility under law to protect individuals with disabilities from abuse, neglect and civil violations. Over the past decade, DRM has investigated the mental health care provided to individuals with mental illness state correctional facilities, finding the care seriously inadequate, particularly those housed on segregation (restrictive housing) units. We have visited and toured many of the state’s facilities, have reviewed thousands of pages of medical records, engaged with representatives of the Department of Public Safety and Correctional Services (DPSCS), and communicated with incarcerated individuals with disabilities throughout the State. In December 2025, we toured the new Mental Health Tiers at Western Correctional Institution in Cumberland with our experts. DRM has found that the mental health care provided to many incarcerated individuals with mental illness is constitutionally deficient¹ and appreciates attempts to improve care.

However, SB 196 allows seriously mentally ill incarcerated individuals to be subject to various psychotropic medications against their will without proper protections and within an inadequate treatment environment. Given the current DPSCS mental health structure, which involves a private for-profit mental health care provider who has not provided services as required in its contract and which operates without proper oversight by DPSCS, and the lack of protections and treatment that should accompany any consideration of forcible care, DRM urges this Committee to reject the bill. Recognizing the critical importance of proper mental health care, DRM suggests that the subject of the bill be considered for further study. DRM offers to participate in any such process.

DRM’s Concerns Include:

The Inadequate Environment: Disability Rights Maryland hears frequently from incarcerated individuals and their loved ones that mental health treatment and supports are not available. From DRM’s experiences, the complaints are valid. The Department of Legislative Services, Office of Legislative Audits review of Incarcerated Individuals Healthcare Contracts (November 25, 2024) noted that audits dating back to February 2007 have identified issues with the health care contracts. DPSCS’ current contractor, Centurion, provides both mental health and somatic

¹ In 2021, after sharing reports with DPSCS and engaging in attempts to remedy the serious harms DRM observed for years, DRM filed *DRM v. Scruggs*, Case No. 1:21-cv-02959-MJM, in federal district court to ensure the rights of individuals with serious mental illness to be free from the harm caused by segregation and to ensure the provision of constitutionally adequate mental health care for individuals in segregation. That case is pending.

health care services to DPSCS state facilities. Centurion was also providing mental health care in DPSCS state facilities during the previous 5-year contracting period (which was extended by a year). Included among the audits' recent findings are:

- DPSCS awarded the medical and mental health contracts despite concerns with the contractors;
- DPSCS did not monitor the contracts to ensure critical health exams were conducted;
- DPSCS did not monitor the contracts to ensure required staffing was provided;
- DPSCS did not monitor the contracts to ensure adequacy of ordered pharmaceuticals;
- DPSCS could not demonstrate that the staffing levels were sufficient to provide required services;
- The mental health and medical contractors failed to provide all the required staff in any month of their respective contracts;
- DPSCS did not assess the mental health contractor liquidated damages totaling approximately \$10.5 million between March 2022 and January 2024; and
- DPSCS did not follow up with the mental health contractor to ensure that missing screenings and incomplete physical exams were completed. In a three-month audit in 2023, the mental health contractor did not complete 548 required Suicide Risk Evaluations and 682 required Mental Health Exams.

Incarcerated individuals maintain a constitutional liberty right to control their own body, including the medications that go into it. The U.S. Supreme Court has opined that this right may only be abridged to meet an important governmental interest, such as significant danger to self or others within the institution. DRM is aware that the mental health care for many individuals who refuse medication is significantly inadequate and there does not appear to be any foreseeable possibility of moving such individuals to the state hospitals, where they may receive better clinical services. *However, authorizing forced medication without requiring provision of critically needed companion services and without adequate protections is not the answer.* Instead, a thoughtful evaluation of what is required for critical licensed mental health units within DPSCS is required.

Other Considerations:

1. **Due Process Protections Should Be Provided.** Incarcerated individuals should have the same right to counsel and appeal as individuals facing involuntary medication in Maryland's hospitals and psychiatric units. Due process requires that incarcerated individuals are only involuntarily medicated when they meet legal requirements. Pursuant to Md. Code Ann., Health-General § 10-708, individuals in psychiatric hospitals and psychiatric units of general hospitals have the right to an attorney to represent them in any appeal before the Office of Administrative Hearings, and the

legal right to appeal their case to Circuit Court if they disagree with the Administrative Law Judge's decision. In the federal system, public defenders are notified prior to clients being involuntarily medicated, so they can defend their clients' rights to be free from medication when it would unfairly harm their underlying criminal case or otherwise violate their clients' constitutional and civil rights. SB 196 does not provide for legal counsel to be provided to incarcerated individuals in licensed mental health infirmaries in DPSCS facilities who are proposed for involuntary medication.

2. **Clarify What Is Meant By "State Correctional Facilities."** Page 2, line 15 states that the provisions of SB 196 apply only in "state correctional facilities." MD Code, State Finance and Procurement, § 11-101 defines "State Correctional Facilities" as correctional institutions, and all places of correctional confinement, that are located within the State of Maryland and are primarily operated by the Maryland State government." It is unclear whether this definition is intended to include Baltimore City's detention facilities, which are operated by DPSCS, or even local detention centers. We recommend that this be clarified with an amendment to the bill. There are many more protections that need to be provided if pretrial defendants were to be involuntarily medicated.
3. **Clarify What Is a "Licensed Mental Health Infirmiry."** SB 196 page 2, lines 11-13 define "Licensed Mental Health Infirmiry" as "a designated unit within a state correctional facility that is licensed by the Maryland Department of Health as a mental health infirmiry." The term "Mental Health Infirmiry" is not used in Maryland statute or regulation, or by the Office of Health Care Quality (OHCQ). Instead, OHCQ has licensed three "Health Facilit[ies] within a Correctional Institution" in DPSCS-operated facilities, pursuant to Health-General § 19-318, which I have attached to my testimony. However, it is important to know that there are **no** standards for a "mental health infirmiry." The Department of Health and OHCQ do not provide monitoring or review of DPSCS facilities, except to issue licenses. Therefore, it is critical that there is clarity about how clinical oversight is to be provided in "Licensed Mental Health Infirmaries."

DRM recommends that an amendment be adopted to clarify that a Licensed Mental Health Infirmiry is the same thing as what OHCQ calls a "Health Center with a Correctional Institution" and that appropriate medical and mental health clinicians must be available on-site 24 hours a day, 7 days a week. Individuals should not be involuntarily medicated outside of such facilities. To do otherwise would subject individuals to an unreasonable risk of harm, and even death, because they could not be adequately monitored by mental health and medical clinicians in other correctional settings.

DRM is also concerned that provision of involuntary medication may result in further harms, such as cell extractions, use of mace, or other force. **Provision of involuntary medications should be administered in a private clinical setting.**

4. **Provision of Other Supportive Therapies and Treatment.** To be most effective, psychotropic medication often must be accompanied by counseling, therapy, group therapy, and/or psychosocial programs. A Medication Review Committee convened to consider forcible medication should be required to consider both (1) whether there are less intrusive mental health services that should be provided to ameliorate the danger of risk of harm, and (2) whether the forcible medication needs to be accompanied by other treatment in order to justify its use and provide proper care. Such supportive therapies are currently extremely limited in DPSCS facilities; when they do exist, they often consist of packets provided to individuals to complete in their cells.
5. **Individuals Should Have the Right to an Independent Advocate and to Review Medication History and Requests for Alternative Medications.** More consideration should be given to who and how an advocate for the individual who is seriously mentally ill is to be provided. As drafted, there is no clarity in the bill for who can be in this role. In state hospitals, there exist independent “rights advisors” who are specifically tasked and trained for their positions. The individual should have the right to include another advocate of their choice, including a family member who can share information and support the individual. We also recommend an amendment permitting the incarcerated individual who is subject to a Medication Review Committee to be specifically permitted to share information with the committee about what medications they believe would be or have in the past been helpful to their mental health, and what they are willing to take. The Medication Review Committee should be directed to give due weight to the perspective of the incarcerated individual in this regard.
6. **Medication Formularies.** DRM has heard frequently that the medication provided by DPSCS is not the medication previously prescribed for an individual and that that medication may not be on the DPSCS formulary. The person who is subject to forcible medication and their advocate, with consent, must be provided access to the individual’s medical history and information about alternative medications and potential side effects. The Medication Review Committee should be directed to give due weight to the perspective of the incarcerated individual in this regard and have access to processes for when a non-formulary medication may be authorized.
7. **Individuals Should Receive a Copy of the Medication Review Committee’s Report.** On page 5, lines 16-17, the Report should also be provided to the individual who the subject of a Medication Review Committee and their advocate or lay advisor.

For reasons stated above, DRM urges the Committee to reject the bill and to permit stakeholders to spend the time needed to address the issues presented by DRM and others who oppose the proposed legislation but support the provision of adequate mental health care in DPSCS facilities.

Should you have any questions or need additional information, please contact Luciene Parsley, Litigation Director at Disability Rights Maryland, at lucienep@disabilityrightsmd.org or at 443-692-2494.



MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
OFFICE OF HEALTH CARE QUALITY
SPRING GROVE CENTER
BLAND BRYANT BUILDING
55 WADE AVENUE
CATONSVILLE, MARYLAND 21228

License No. 02-037

Issued to:

Maryland Correctional Institution - Women,
Women's Mental Health Center
P O Box 535, 7943 Brockbridge Road
Jessup, MD 20794

Type of Facility: Health Facility Within a Correctional Institution

This license has been granted to:

STATE OF MARYLAND DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES

Number of Beds: 14

Date Issued: July 1, 2018

Authority to operate in this State is granted to the above entity pursuant to The Health-General Article, Title 19 Section 318 Annotated Code of Maryland, 1982 Edition, and subsequent supplements and is subject to any and all statutory provisions, including all applicable rules and regulations promulgated thereunder. This document is not transferable.

Patricia Tomoko May MD

Director

Falsification of a license shall subject the perpetrator to criminal prosecution and the imposition of civil fines.



**MARYLAND
DEPARTMENT OF HEALTH
OFFICE OF HEALTH CARE QUALITY
SPRING GROVE CENTER
BLAND BRYANT BUILDING
55 WADE AVENUE
CATONSVILLE, MARYLAND 21228**

License No. 02-022

Issued to:

**Patuxent Institute
Post Office Box 700
Jessup, MD 20794**

Type of Facility: Health Facility Within a Correctional Institution

This license has been granted to:

MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Number of beds: 190

Date Issued: July 1, 2018

Expiration: Non-Expiring

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Patricia Tomasko May, MD
Executive Director

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**MARYLAND DEPARTMENT OF HEALTH
OFFICE OF HEALTH CARE QUALITY
7120 SAMUEL MORSE DRIVE, SECOND FLOOR
COLUMBIA, MARYLAND 21046-3422**

License No. 30-107

Issued to: **Baltimore Central Booking Intake Center
300 E. Madison Street
Baltimore, MD 21202**

Type of Facility: **Health Facility Within a Correctional Institution**

This License has been granted to:

**STATE OF MARYLAND DEPARTMENT OF PUBLIC
SAFETY AND CORRECTIONAL SERVICES**

Number of Beds: **32**

Date Issued: **July 1, 2018**

Expiration Date: **Non-expiring License**

Authority to operate in this State is granted to the above entity pursuant to The Health-General Article, Title 19 Section 318 Annotated Code of Maryland, 1982 edition, and subsequent supplements and is subject to any and all statutory provisions, including all applicable rules and regulations promulgated thereunder. This document is not transferable.

Patricia Tomsko May, MD

Director

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