MARYLAND PSYCHIATRIC SOCIETY

December 5, 2022

Via email to mdh.regs@maryland.gov

Maryland Psychiatric Society comments on re-proposed changes to COMAR 10.21.01 Involuntary Admission to Inpatient Mental Health Facilities published November 4, 2022

Maryland Psychiatric Society (MPS) member psychiatrists are integrally involved in caring for people with severe behavioral illnesses. Involuntary commitment should be avoided whenever possible, but it may be the best course for some of those individuals. Sometimes people at significant risk to themselves or others are not retained; in some very heart wrenching instances, the result is tragic. Three recommendations are outlined in the Involuntary Commitment Stakeholders' Workgroup August 11, 2021 report. The MPS supports the recommendation to provide more information and training around the *existing* dangerousness standard, which accommodates a range of gray area situations involving serious risk to the individual or others. We also support the recommendation to collect more data about how the current system is working. We disagree with the recommendation to define the dangerousness standard in regulations, but to our knowledge this is the only action being contemplated. The proposed regulation does not provide a comprehensive solution, and may exacerbate the very problems it aims to address.

Although the proposed, more detailed definition of "danger to the life or safety" is qualified by the phrase "*but is not limited to,"* **the changes will narrow the ability to use involuntary commitment.** Why does the regulatory definition call out just three circumstances? This gives them more weight than other possible scenarios that may not be adjudicated in the same light. Our concern about "better" defining dangerousness is that the "better" definition becomes the limit, rather than an expansion. We are also concerned about the use of words like *unable* and *recent*. For example, after Oregon adopted the standard, "*Unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm*," their number of commitments dropped. Including the word "*recent*" will make it difficult to allow evidence of past violence relevant to current violence. Past violent behavior is the best predictor of future violent behavior. Further, "*reasonable* fear of physical harm" is open to interpretation.

We again respectfully request that the changes to COMAR 10.21.01 be limited to updating the health care professionals who are authorized to complete a certificate. The current system in Maryland allows for a reasonable evaluation in the Emergency Department so that people can't be hospitalized without a couple of points of caution to prevent malicious or misdirected attempts by family or others, and a good mix of clinical assessment to hold people who are dangerous because of their psychiatric disorder, while also preserving patients' rights. It is not perfect, but we think these changes would make it worse.

Involuntary admissions are needed to keep patients safe when resources in the community are not available. These regulatory changes aim to address a problem that mainly stems from inadequate resources for people suffering acute mental health crises. Maryland needs more staffed inpatient beds at both private and state hospitals. We also need more specialized, high quality, community-based alternatives to hospitalization. This is the starting point for a comprehensive solution, in addition to training and gathering data.

Thank you for the opportunity to provide input. Please email heidi@mdpsych.org with questions.

Sincerely,

Jessica V. Merkel-Keller, M.D.
President