

# MARYLAND PSYCHIATRIC SOCIETY



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September 8, 2022

Via email to [mdh.regs@maryland.gov](mailto:mdh.regs@maryland.gov)

## Maryland Psychiatric Society comments on proposed changes to COMAR 10.21.01 Involuntary Admission (IVA) to Inpatient Mental Health Facilities

The Maryland Psychiatric Society (MPS) appreciates the Involuntary Commitment Stakeholders' Workgroup and its August 11, 2021 [report](#). Our member psychiatrists are integrally involved in caring for people with severe behavioral illnesses and involuntary commitment may be the best course for some of those individuals. We agree that there are times when people are at significant risk to themselves or others, yet they are not retained. This serious problem can lead to reluctance to even begin the emergency petition process or to rely on voluntary commitment (which can result in premature discharge) when there is concern that others may interpret the statute differently. In some very heart wrenching instances, the result is tragic.

The Workgroup outlined three recommendations. The MPS supports the recommendation to provide more information and training around the existing dangerousness standard, which readily accommodates a range of gray area situations involving serious risk to the individual or others. We also support the recommendation to gather more data about how the current system is working. Although it is initially appealing, we disagree with the recommendation to refine the dangerousness standard in regulations, yet to our knowledge this is the only action being taken at this time. The [proposed regulation](#) gives the appearance of addressing the conflict between civil liberty and safety but does not provide a comprehensive solution in our view.

Even though the proposed definition of "danger to the life or safety" is more detailed and prescriptive, **the changes significantly narrow the ability to use involuntary commitment**, so there will still be instances when the individual is not retained but should have been. For example,

- It requires the patient to be "unable" to care for self, but few would meet this standard because it requires complete disability.
- It does not include significant destruction of property.
- "[Reasonable](#) fear of physical harm" can still be interpreted differently.
- Although there is similar risk with the existing regulation, the definitions could be mis-used.
- It requires overt acts.

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**We 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.**

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 inpatient beds at both private and state hospitals. This deficiency can lead to individuals being inappropriately released from the emergency department when there is an ambiguous situation and no bed availability. 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](mailto:heidi@mdpsych.org) with questions.

Sincerely,

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

Jessica V. Merkel-Keller, M.D.

President