



Testimony on HB 581
Labor and Employment – Employment Standards During an Emergency
(Maryland Essential Workers’ Protection Act)

House Economic Matters Committee

House Appropriations Committee

February 5, 2021

POSITION: OPPOSE

The Community Behavioral Health Association of Maryland (CBH) is the leading voice for community-based providers serving the mental health and addiction needs of vulnerable Marylanders. Our 95 members serve the majority of those accessing care through the public behavioral health system. CBH members provide outpatient and residential treatment for mental health and addiction-related disorders, day programs, case management, Assertive Community Treatment (ACT), employment supports, and crisis intervention.

While we support the intent of the bill to provide protection and support for essential workers, the provisions of this bill would create severe financial hardship for providers such as our members who serve individuals with serious mental health disorders in the public behavioral health system. Our rates are set by the State Medicaid program; we cannot alter them nor can we pass additional costs onto the individuals we serve. **Should this bill pass in its current posture we strongly urge that Medicaid rates for impacted organizations be raised commensurate with the costs associated with compliance.** Further, we are very concerned that employees could refuse to fulfill their job duties if they encounter conditions they feel to be unsafe. This provision could result in unstaffed group homes and residences for individuals with schizophrenia and other serious mental health disorders who rely on staff support – in many cases around the clock.

HB 581 requires employers to provide hazard pay during an emergency. At the beginning of the COVID emergency CBH strongly urged the Maryland Department of Health (MDH) to provide retainer payments or temporarily raise reimbursement rates so that providers could offer hazard pay, particularly for their residential staff. Although other states implemented such changes, MDH refused to do so, leaving our organizations wanting to provide hazard pay but without the means to do so. This bill also requires employers to provide financial assistance for unreimbursed health care costs to each essential employee who becomes sick as a result of the emergency – whether the illness resulted from the employee’s workplace or not. This could run up a significant tab with premium contributions, copays, deductibles, and other out-of-pocket expenses accruing to our providers – again, with no commensurate Medicaid reimbursement rate increase to offset the costs.

We are also very concerned about the provisions of the bill allowing essential workers to refuse to fulfill a job duty if they fear for their health due to the nature of the work being performed. This could have a very serious impact on the ability of our providers to adequately staff group homes and other residential programs. These residential programs – often staffed 24/7 – have one or two employees regularly scheduled to work each shift. Sometimes the residents they work with do not adhere with masking, hand washing or social distancing guidelines due to the disorganization caused by their mental disorder. Every effort is made to work with the individuals we serve to educate and assist them with adherence to safety guidelines, but those efforts sometimes are to no



avail. **If one or more employees choose not to work their shifts, we could quickly have homes left unattended and clients going without essential services such as medication monitoring.**

It is important to note that even the provisions of the bill requiring employers to provide necessary amounts of personal protective equipment (PPE) to their essential workers proved to be beyond the reach of community behavioral health organizations in the first few months of the pandemic, despite their desperate attempts to secure PPE. Even larger and better resourced health care systems, such as hospitals, struggled to find adequate PPE, while community providers were left to their own resources as inpatient settings were prioritized.

For these reasons we urge careful deliberation on the unintended consequences of this bill. Given the expected flood in demand for behavioral health services resulting from the impacts of the pandemic, this is a dangerous time to risk implementing measures that could result in reduced access to needed services.

We respectfully urge an unfavorable report for HB 581.