

Title 10
MARYLAND DEPARTMENT OF HEALTH

Subtitle 21 MENTAL HYGIENE REGULATIONS

10.21.01 Involuntary Admission to Inpatient Mental Health Facilities

Authority: Health-General Article, §§7.5-204—7.5-205, 10-603, 10-615—
10-616, 10-619, 10-625, and 10-806(d)(3), Annotated Code of Maryland

Notice of Proposed Action

[22-140-P]

The Secretary of Health proposes to amend Regulations .04 and .08 under **COMAR 10.21.01 Involuntary Admission to Inpatient Mental Health Facilities**.

Statement of Purpose

The purpose of this action is to:

- (1) Define “danger” for purposes of emergency psychiatric evaluation and involuntary admission to a facility;
 - (2) Update the reference of the psychiatric nurse practitioner to reflect their involvement in the involuntary admission process;
- and
- (3) Update the Involuntary Admission Certificate requirements to include licensed certified social worker-clinical and licensed clinical professional counselor in accordance with Ch. 476, Acts of 2021.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jourdan Green, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through September 12, 2022. A public hearing has not been scheduled.

.04 Physician’s, Psychologist’s [or], Psychiatric Nurse Practitioner’s, Licensed Certified Social Worker-Clinical’s, or Licensed Clinical Professional Counselor’s Certificate for Involuntary Admission (IVA).

A. The following shall be submitted when initiating the IVA of an individual:

- (1) (text unchanged)
- (2) A certificate completed by:
 - (a) (text unchanged)
 - (b) One physician and one psychologist; [or]
 - (c) One physician and one psychiatric nurse practitioner[.];
 - (d) *One physician and one licensed certified social worker-clinical; or*
 - (e) *One physician and one licensed clinical professional counselor.*

B. The Secretary shall provide the certificate that includes the following:

- (1)—(5) (text unchanged)
- (6) Spaces for the following information:

(a) The name, address, and telephone number of the certifying physician, psychologist, [or] psychiatric nurse practitioner, *licensed certified social worker-clinical, or licensed clinical professional counselor*;

(b) (text unchanged)

(c) The date that the physician, psychologist, [or] psychiatric nurse practitioner, *licensed certified social worker-clinical, or licensed clinical professional counselor* examined the individual;

(d)—(f) (text unchanged)

(7) A statement of whether the individual who completes the certificate is a physician, psychologist, [or] psychiatric nurse practitioner, *licensed certified social worker-clinical, or licensed clinical professional counselor*;

(8) The statement that the physician, psychologist, [or] psychiatric nurse practitioner, *licensed certified social worker-clinical, or licensed clinical professional counselor*:

(a)—(b) (text unchanged)

(9) Space for the signature of the physician, psychologist, [or] psychiatric nurse practitioner, *licensed certified social worker-clinical, or licensed clinical professional counselor* and for the date and time the certificate is signed.

C. To complete a certificate for IVA, a physician, psychologist, [or] psychiatric nurse practitioner, *licensed certified social worker-clinical, or licensed clinical professional counselor* shall:

(1)—(3) (text unchanged)

(4) Attach to one of the certificates for IVA copies of any available current medical reports or records that support the individual's need for involuntary care or treatment in an inpatient facility, with reports including at a minimum:

(a)—(b) (text unchanged)

(c) An explanation of why the individual meets the following requirements for IVA:

(i)—(ii) (text unchanged)

(iii) The individual presents a danger to the life or safety of the individual or of others *in accordance with the requirements of §E of this regulation*;

(iv)—(vi) (text unchanged)

(d)—(e) (text unchanged)

D. (text unchanged)

E. For an individual to meet the requirements as presenting a danger to the life or safety of the individual or others, the individual shall experience an incident that:

(1) Is recent and relevant to the danger which the individual may currently present;

(2) Arises as a result of the presence of a mental disorder; and

(3) Includes, but is not limited to, one of the following scenarios:

(a) The individual has threatened or attempted suicide, or has behaved in a manner that indicates an intent to harm self, or has inflicted or attempted to inflict bodily harm on self or another;

(b) The individual, by threat or action, has placed others in reasonable fear of physical harm; or

(c) The individual has behaved in a manner that indicates they are unable, without supervision and the assistance of others, to meet their need for nourishment, medical care, shelter, or self-protection and safety such as to create a substantial risk for bodily harm, serious illness, or death.

.08 Schedule of IVA Hearings.

A. (text unchanged)

B. Change of Status Hearing.

(1) (text unchanged)

(2) [Two physicians or one physician and one psychologist] *A physician, psychologist, psychiatric nurse practitioner, licensed certified social worker-clinical, or licensed clinical professional counselor* shall evaluate the individual and, if the individual meets the requirements for IVA outlined in Health-General Article, §10-617, Annotated Code of Maryland, and Regulation .04C(4)(c) of this chapter, shall submit an application for IVA of the individual in accordance with the provisions of Regulation .03 of this chapter and complete certificates for IVA in accordance with the provisions of Regulation .04 of this chapter:

(a)—(d) (text unchanged)

(3)—(4) (text unchanged)

C. Semiannual Hearing.

(1) (text unchanged)

(2) At least 7 days before the date a semiannual hearing is scheduled to take place:

(a) [Two physicians or one physician and one psychologist or one physician and one psychiatric nurse practitioner] *A physician, psychologist, psychiatric nurse practitioner, licensed certified social worker-clinical, or licensed clinical professional counselor* shall complete certificates for IVA in accordance with the provisions of Regulation .04 of this chapter;

(b)—(d) (text unchanged)

(3) (text unchanged)

DENNIS R. SCHRADER
Secretary of Health