To Michigan House Appropriations Subcommittee on Health & Human Services
Chair Mary Whiteford 3/3/21 Meeting

COMMENT ON BEHAVIORAL HEALTH & STATE HOSPITALS

THE MENTAL HEALTH CODE AND ITS ADMINISTRATION (330 MCL 1401) SHOULD BE DESIGNED TO PROTECT & HELP THE VULNERABLE WITH DUE RESPECT FOR INDIVIDUAL RIGHTS & QUALITY OF CARE, RATHER THAN WITH OPPRESSION, INTIMIDATION, AND HARM. NEEDED REFORMS INCLUDE:
1.ESTABLISH CIVIL LIABILTY FOR WRONGFUL COMMITMENT CERTIFICATIONS & 2.EXPLICITLY PROTECT THE RIGHT TO REFUSE SPECIFIC PSYCHIATRIC DRUGS FOR SPECIFIC REASONS (330 MCL 1718 Consent)

The fact that most of the other states have done this is **very important** because it proves that depriving Mich citizens of this liberty and this justice is **unnecessary and unjustified.** Mich should follow the lead of other states and uphold our nation's most sacred values and principles before considering amendments which, otherwise, will result in even more harm to the health and rights of citizens.

States with a **malpractice or negligence** liability standard for clinical certifications include: Cal.WIC-5278,GC-856, Ill.405-5/6-103, N.Y., N.J., Tenn.33-3-901, Fla.394.459(10), N.C.122C-210.1, Ky.202A301, KS.59-29b80, N.D. 25-03.1-42, Del.16-5004

States with a **gross negligence or good faith** standard for these certifications include: Org.426.335(4), Tex.7-571.019(6), Penn.50-7114, Ohio 5122.34, Ind.12-26-2-6, Wis.51.15(11), Minn.253B23(4), S.D.27A-10-23, Mo.632,440, Ark.20-47-227, La.28-63, Miss.41-21-105, Ga.37-3-4, Idaho 66-341, Wash.71.05.120

The liberty and personal interests of those who must defend against a psychiatric commitment accusation are far too great to be without deterrence or a remedy for abuses or malpractice.

MH crises should be resolved while allowing the patient to choose what types of therapies or drugs work best for themselves and improves their quality of life(1206). The purpose of MH commitment is to resolve dangerousness crises in a manner that honors the individual's therapeutic preferences and choices(1700g,1712), dignity and safety, and in a least restrictive/harmful/intrusive way (1708). Recipients generally will take drugs which alleviate suffering, illness, disability and distress. However, when the drugs cause, rather than alleviate, these things, the recipient's right to refuse is backed up by criminal health care fraud law. If the drugs are to be used as chemical restraints to reduce dangerousness, it should be very short term only (1-3 days). The right to refuse psych drugs is clearly and repeatedly derived from constitutional, statutory, common, and administrative law, but is usually just ignored by doctors, judges, administrators, and MDHHS.

The key problem is that psychiatry's leading drug treatment for persons with SMI (APDs) are frequently harmful and counter-therapeutic – causing serious mental and physical illnesses and impairing mental functioning. The scholarly literature has revealed that APDs are neurotoxic, meaning they damage rather than heal the brain, and are toxic to all of the body's organ systems (note the Physicians Desk Reference). There is also tremendous bias on the part on doctors to conceal and not reveal the very unsafe and low quality of this entire class of drugs.

Most appellate courts have decided that the civilly committed do retain a right to refuse APDs, and yet most courts have overestimated the effectiveness and underestimated the harms of APDs, which are still being uncovered and discovered today. Those who administer MH Code commitments in Michigan should at least get into compliance with the standards enunciated in ROGERS V DEPT MENTAL HEALTH, 458 NE2d 308, DAVIS V HUBBARD, 506 FS 915, PEOPLE V MEDINA, 705 P2d 961, MEYERS V ALASKA, 138 P3 238.

Sincerely,

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