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President and CEO
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Ambassador (ret.) Barry B. White

Chairperson of MAMH Board of

September 12, 2023

The Honorable Michael Day
Chair, Joint Committee on Judiciary
24 Beacon Street, Room 136
Boston, MA 02133

By email to michael.musto@mahouse.gov

The Honorable James Eldridge
Chair, Joint Committee on Judiciary
24 Beacon Street, Room 511-C
Boston, MA 02133

Dear Chair Day, Chair Eldridge, and Members of the Joint Committee on the Judiciary:

Re: Testimony in support of H.1759/S.1047, An Act Establishing Medical Civil Rights

On behalf of the Massachusetts Association for Mental Health (MAMH), I am writing to respectfully submit this testimony in support of the above-referenced bill, heard by your Committee on July 25, 2023.

Formed over a century ago, MAMH is dedicated to promoting mental health and wellbeing, while preventing behavioral health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. This includes discrimination affecting not only people with behavioral health conditions, but also people who face unequal burdens and barriers to the protections and benefits of citizenship due to their race, ethnicity, gender identity, or disability status. MAMH has a demonstrated track record of furthering its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methodologies.

H. 1759/S.1047, An Act Establishing Medical Civil Rights, requires the provision of medical services to anyone who is experiencing an emergency medical condition or is medically unstable while in contact with the police. Police contact in this case encompasses all police interactions from an initial encounter with police officers until the point that the person is released or transferred out of police custody. Although police officers have a duty by law to provide reasonable care to a person while in police custody, this duty is not consistently abided by. Under many current police department policies, the law enforcement officer is the person who performs the initial clinical assessment, a responsibility outside of the scope of their training.

This bill would ensure the right of an individual who is in distress, whether physically or mentally, to access emergency medical services and would place an obligation on law enforcement officers to address the health needs of that individual. The law would require law enforcement officers to immediately request emergency medical services for any person in police contact who (1) communicates that they are experiencing an emergency medical condition, (2) reasonably appears to a law enforcement officer to be experiencing an emergency medical condition, or (3) a law enforcement officer observes to be or communicates to a law enforcement officer that they are deteriorating into a medically unstable status. The legislation classifies mental health crises as medical emergencies.

While there are legal rights to basic medical care that apply once an individual is incarcerated, state laws do not extend these protections to situations prior to formal arrest when a person feels they cannot leave the interaction. This legislation would establish a right to medical services when under the control of law enforcement and, in doing so, would address this legal gap.

Although internal police department policies and regulations promoting medical care do exist, a mandated right to emergency care could encourage persons experiencing or observing a medical emergency to request necessary help. While many policies address the broad issue of medical assessment, this legislation would ensure that the assessment is prompt and that a trained medical professional is the one to provide it. In a time when we as a society ask much of law enforcement, this bill would help delineate a line of responsibility to ensure that medical professionals are the ones assessing and triaging individuals in police contact. Also, enshrining this best practice in law would help ensure consistent application across all demographics.

This legislation is particularly important for people with behavioral health issues. The hope is that it will improve access to behavioral health services as assessments with medical professionals, trained to identify behavioral health issues, will be more available. In this way, individuals in crisis can be screened and, when necessary, directed to the appropriate level of care. That care might include, for example, a connection to new EOHHS Roadmap services for people with behavioral health issues, including a connection to the Behavioral Health Help Line and/or one of the 25 newly opened Community Behavioral Health Centers that cover all communities in the state, and that provide crisis services in the community and on site. The availability of a medical professional to conduct review and make referrals will also serve the goal of reducing unnecessary emergency department hospitalization and, even more troubling, criminal legal system involvement. Finally, many people with behavioral health issues have experienced trauma and anxiety, in some cases due to, or made worse by, interactions with police. When these persons are experiencing a mental health emergency, a hand off to a medical professional may also help avoid further mental health deterioration.

Even in communities that already employ a co-response model¹ to provide clinical coverage in situations where police interact with people experiencing behavioral health crises, the protections of the Medical Civil Rights Act are essential. There are various situations in which co-response may not occur or may be inadequate. For example, if someone reports that a person is threatening or involved in criminal activity but does not know, or does not indicate, that this person has behavioral health issues, the police department may dispatch law enforcement officers without the accompaniment of a behavioral health professional. Another situation which frequently arises is when law enforcement officers encounter

¹ In the co-response program, a therapist, mental health counselor, social worker, or treatment professional works alongside law enforcement so that a police officer and social worker or therapist arrive together.

someone with behavioral health issues while on police patrol. Existing data indicate that approximately 60% of the mental health crises that law enforcement officials handled were encountered on patrol.² In many of these instances, there is no behavioral health professional present and thus no one on the scene to help law enforcement officers to deescalate the situation. This is especially problematic in light of data compiled by the Washington Post indicating that people with behavioral health issues currently account for a quarter of all people killed by law enforcement officers in the United States.³

H. 1759/S.1047 would guarantee the civil rights of those who interact with law enforcement officers. We must codify these rights in law and ensure the humane treatment of this often-vulnerable population. In June 2023, Connecticut passed the Medical Civil Rights Act into law. Massachusetts should follow suit. We ask that this Committee report this bill favorably out of committee.

Thank you for your consideration. If we can provide any additional information regarding this bill, please do not hesitate to contact us.

Sincerely,



Danna Mauch, PhD
President and CEO

c: Representative Kay Khan
Senator Adam Gomez

² Medical Civil Rights Initiative, FAQ: The Medical Civil Rights Act (“Law enforcement officers whom we polled and the existing data indicate that approximately 60% of the mental health crises handled by officers were not reported to 911 but were encountered on patrol.”)

³ International Bipolar Foundation, <https://ibpf.org/how-mental-illness-affects-police-shooting-fatalities/> (visited 8/9/2023) (citing Washington Post data).