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March 31, 2023

Stephen Liggett-Creel  
Senior Advisor to the Secretary  
Department of Human Services

### **RE: Proposed Regulatory Changes for Child Placement Worker Requirements**

Dear Mr. Liggett-Creel:

Please accept this letter as comments of the Community Behavioral Health Association of Maryland (CBH) to the DHS memo dated March 24, 2023, seeking stakeholder input on proposed changes to COMAR 07.05.01.14C. CBH welcomes the Department's solicitation of stakeholder feedback, and we strongly support the proposed changes.

CBH is the leading voice for community-based providers of mental health and addiction-related services. Our 110 members employ over 13,000 staff, including professionals regulated by eight different health occupation boards and two state certification boards. Within the child welfare sector, CBH members deliver treatment foster care (TFC) and independent living programs (ILPs) that would be impacted by the proposed rule change.

We commend the Department for its rapid response to the workforce crisis facing child welfare providers. We note with pleasure the informal release of proposed regulatory changes. An informal release such as this promotes dialogue between stakeholders and the Department that should allow the Department to modify its approach to ensure that it is effective. This is both a more efficient use of resources and an approach that is more likely to result in arriving at the right result.

### **CBH Supports the Policy Goal Underlying the Proposed Changes**

The Social Services Administration (SSA) faces the challenge of rebalancing and rebuilding the continuum of care in the child welfare system while Maryland is in the midst of a workforce crisis. CBH believes that the staffing modifications reflected in the proposed regulation will help SSA effectively meet this critical policy goal.

Under the previous Administration, there was a 33% reduction in the number of children in the monthly foster care caseload.<sup>1</sup> As the availability of community placements shrank, the child welfare system exerted steady upward pressure on the continuum of care. As a result, the rate of children under age 12 placed in institutional settings doubled, according to the most recently available data.<sup>2</sup> Foster care youth also overstay medical necessity in Maryland hospitals due to lack of available placements at lower levels of the continuum.<sup>3</sup>

Addressing the over-institutionalization of foster youth and overstay problem in Maryland hospitals requires building – or rebuilding – capacity at lower levels of care and creating more specialized placements for a subset of children. SSA’s ability to achieve its laudable policy goal is complicated by a rising mental health crisis and endemic workforce crisis facing Maryland providers. Creating greater workforce flexibility by allowing a broader array of frontline staff will help SSA and its provider community better meet the needs of Maryland children. CBH strongly supports rebalancing Maryland’s continuum of care to ensure that children are placed in the least restrictive setting, and supports the proposed regulatory change as a needed step to advance this critical policy goal.

### **CBH Supports the Proposed Use of Professional Counselors in Treatment Foster Care**

Expanding the treatment foster care (TFC) workforce to professional counselors will allow providers to more rapidly fill vacancies and reduce costs, two actions that translate into more capacity to serve vulnerable children. Research and comparison to other states indicates that these results can be achieved without reducing the outcomes experienced by children and families involved with Maryland’s child welfare system.

Competition for social workers accelerated during the pandemic. In 2019, Maryland social workers in health care settings were paid less than those in child welfare settings.<sup>4</sup> By 2021, social workers in health care settings were paid 5% more than their counterparts in child welfare settings.<sup>5</sup>

As providers increasingly compete for a finite pool of social workers, the average time to fill vacant social work positions in Maryland has grown. Every year, CBH conducts a workforce survey of its member organizations. Our most recent survey indicates that social work positions take longer to fill than professional counselor positions. For example, CBH members reported 274 days, on average, to fill a vacancy for a licensed clinical social worker – *now longer than psychiatrists, a profession subject to a well-documented shortage in Maryland*. By contrast, members reported an average 125 days to fill vacant therapy positions. Notably, members reported that clinical staff vacancies take 46% longer in federally designated mental health professional shortage areas. Extended staff vacancies reduce providers’ treatment capacity, and policy attention to these growing vacancy times is critical to ensuring

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<sup>1</sup> Dept. of Legislative Services, [FY23 Budget Analysis](#), p. 16; DLS, [FY21 DHR SSA Budget Analysis](#), p. 1.

<sup>2</sup> U.S. Dept. of Health & Human Services, Administration for Children and Families, [Child Welfare Outcomes Data Site: Maryland](#) (0.7 to 1.4 rate from 2016 to 2019).

<sup>3</sup> Dept. of Legislative Services, [FY23 Budget Analysis](#), pp. 8-12.

<sup>4</sup> U.S. Bureau of Labor Statistics, “[May 2019 State Occupational Employment and Wage Estimates: Maryland](#)” (job categories 21-1021 and 21-1022).

<sup>5</sup> U.S. Bureau of Labor Statistics, “[May 2021 State Occupational Employment and Wage Estimates: Maryland](#)” (job categories 21-1021 and 21-1022).

adequate access to care. Expanding the TFC workforce to professional counselors will reduce vacancy times and, as a result, increase treatment capacity.

Expanding the TFC workforce to professional counselors will also allow providers to stretch dollars further. Although both social workers and counselors experienced wage acceleration over 10% between 2019 and 2021, counselors are paid 10% less on average than social workers.<sup>6</sup>

Research demonstrates that the TFC workforce can be expanded to professional counselors without detrimental impact on children and families involved in the child welfare system. Multiple studies have shown that a social degree does not predict positive outcomes in child welfare settings.<sup>7</sup> Notably, states from deep-blue California to deep-red Texas allow non-social workers to function in treatment foster care settings, a rare alignment across the political and health care spectrum, and Maryland should follow the lead of these states.

For all of these reasons, CBH strongly supports the use of professional counselors in TFC as proposed in the DHS informal regulatory changes.

### **CBH Supports the Proposed Use of Bachelor-Level Staff in Independent Living Programs**

Allowing the use of bachelor's level staff in independent living programs (ILPs) parallels the workforce authorized in Targeted Care Management (TCM), a Medicaid-funded service that focuses on care case management for adults and children with serious mental health needs. The functions of staff in both an ILP and TCM program are to provide care management to vulnerable individuals. An individual is eligible to serve as a TCM care coordinator if they have a bachelor's degree and meet the Department's training requirements. Thus, the job functions of ILP and TCM are similar and the proposed regulations allow a similar level of educational attainment. For these reasons, CBH supports the use of bachelor's level staff in ILPs.

CBH has no members with private foster care placements and does not comment on this portion of the proposed regulations.

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<sup>6</sup> U.S. Bureau of Labor Statistics, "[May 2021 State Occupational Employment and Wage Estimates: Maryland](#)" (job categories 21-1018 and 21-1022).

<sup>7</sup> Douglas EM, McCarthy SC, Serino PA, Does a social work degree predict practice orientation? Measuring strengths-based practice among child welfare workers with the Strengths-Based Practices Inventory-Provider Version, *Journal of Social Work Education*. 2014;50(2):219–233 (in a multi-state sample of child welfare workers, having a social work degree did not predict a strength based practice approach); Perry RE, Do social workers make better child welfare workers than non-social workers? *Research on Social Work Practice*. 2006;16(4):392–405 (performance scores of case managers with a social work degree did not significantly differ from those with other degrees); Staudt M, Jolles MP, Chuang E, Wells R. Child Welfare Caseworker Education and Caregiver Behavioral Service Use and Satisfaction with the Caseworker. *J Public Child Welf*. 2015;9(4):382-398 (Using data from the National Survey of Child and Adolescent Well-Being, we found no significant relationships between having a social work degree and caregiver use of services or satisfaction with the caseworker).

### **CBH Recommends Amendment To Allow the Use of Bachelor-Level Staff in Treatment Foster Care**

The regulations propose allowing the use of bachelor-level staff in independent living programs (ILPs) but retains the use of licensed clinicians in treatment foster care settings (TFC). Just as CBH values levelling workforce across similar types of services in Medicaid and child welfare, we also value levelling workforce among child placement agencies. If the duties performed across child placement agencies are similar in nature, a similar workforce should be authorized.<sup>8</sup>

It is notable that many other states require a masters level supervisor to supervise the bachelors level case managers in treatment foster care settings. This includes North Carolina, Arkansas, Nebraska, Texas, Tennessee and Alabama.<sup>9</sup>

### **CBH Welcomes DHS Support To Improve Analysis of Workforce Demographics**

Any discussion of social work is incomplete without addressing the current controversy surrounding inequitable results of social work licensing examinations. Although not addressed in the DHS memo soliciting feedback on proposed regulatory changes, CBH welcomes DHS support for stakeholder efforts to understand and address issues related to equity in the behavioral health workforce.

To that end, the Maryland General Assembly [passed a law in 2021](#) requiring the Department of Health and Health Occupation Boards to collect and publish data on the demographic make-up of Board licensees. No such data has been published to our knowledge, nor made available upon request. Publication of such data by the Department of Health can assist stakeholders like CBH in efforts to evaluate the diversity of the workforce employed by its members, including in the child welfare space. We therefore encourage the Department of Human Services to support the Department of Health in its efforts to collect and disseminate such data to stakeholders.

### **Conclusion**

CBH appreciates the opportunity to provide these comments on SSA's proposed changes to the workforce regulations. We welcome any questions or further discussion about the recommendations described here; please direct any follow-up inquiries to contact Lauren Grimes via [lauren@mdcbh.org](mailto:lauren@mdcbh.org). Thank you for your time and consideration.

Sincerely,



Shannon Hall, J.D.  
Executive Director

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<sup>8</sup> See COMAR 07.05.02.15, 07.05.04.05, 07.02.21.08.

<sup>9</sup> See, e.g., Tennessee Dept. of Children's Services, "[Contract Provider Manual](#)," p. 9 (January 2023); Alabama DHR, "[Therapeutic Foster Care Manual](#)," p. 28 (July 2016).

DHS Informal Comments  
March 29, 2023



cc: Rafael Lopez, Secretary  
Department of Human Services

Denise Conway, Executive Director  
Social Services Administration

Robin Harvey  
Executive Director  
Office of Licensing and Monitoring