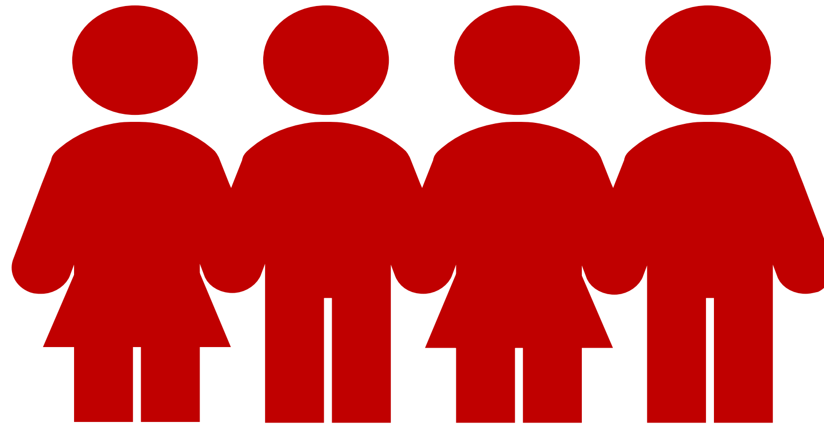
What To Do During a Psychiatric Crisis:
Understanding Maryland's Emergency Evaluation Processes



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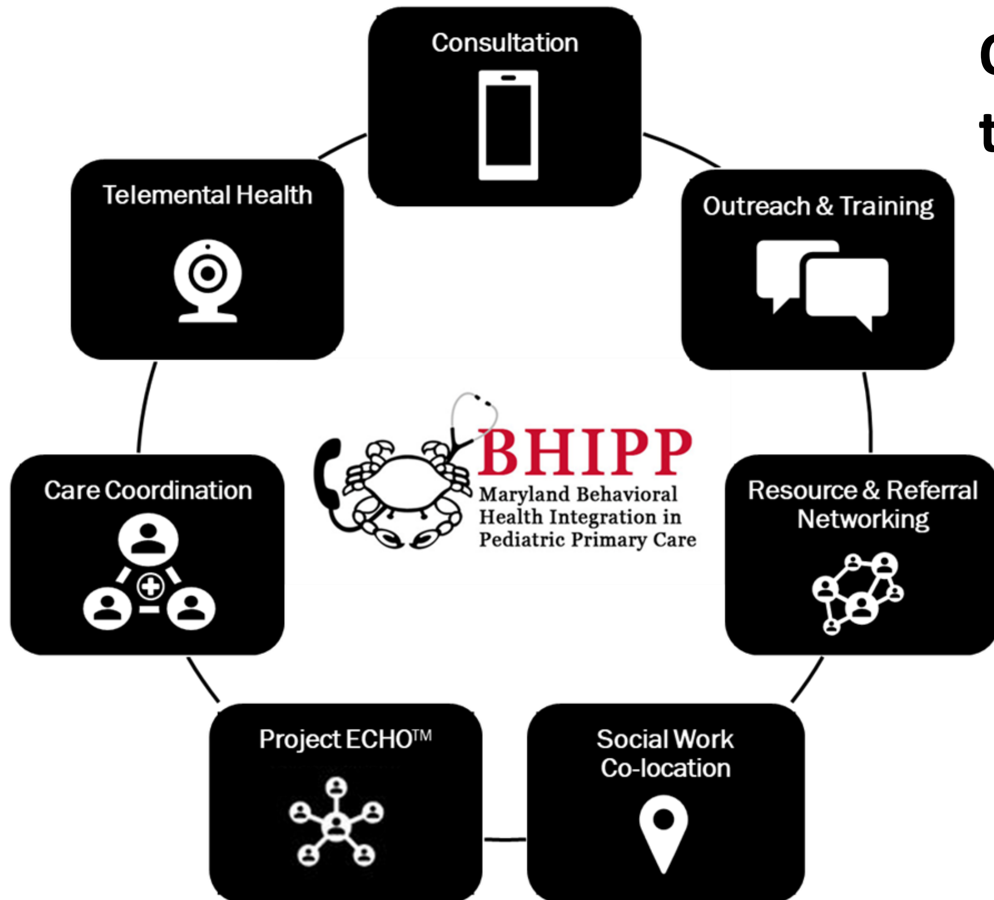
Disclosures

- None

Maryland Behavioral Health Integration in Pediatric Primary Care

Who We Are – Maryland BHIPP



Offering support to pediatric primary care providers through free:

- Telephone consultation (855-MD-BHIPP)
- Resource & referral support
- Training & education
- Regionally specific social work co-location (Salisbury University and Morgan State University)
- Project ECHO®
- Direct telemental health services:
  - Care coordination
  - Psychiatry
  - Psychology
  - Counseling

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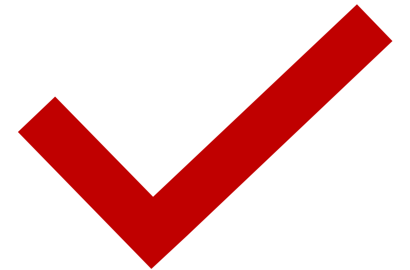
Partners & Funding

BHIPP is supported by funding from the **Maryland Department of Health, Behavioral Health Administration** and operates as a collaboration between the **University of Maryland School of Medicine**, the **Johns Hopkins University School of Medicine**, **Salisbury University** and **Morgan State University**.

Goals & Objectives

<u>After completion of the lecture, learners will be able to:</u>

- Describe circumstances which necessitate completing a Maryland emergency petition
- Outline the process of emergency petitioning someone
- Learn the difference between an emergency petition and the psychiatric certification process
- Describe what happens when a person is involuntarily committed to a psychiatric unit



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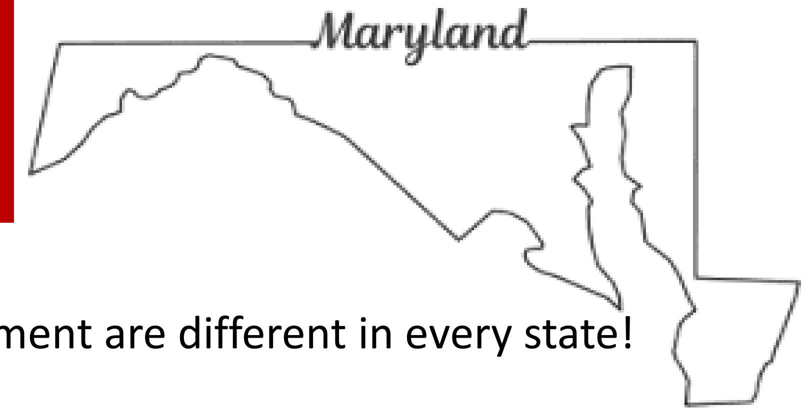
Emergency Evaluations: What Do You Do?

I am worried about my…patient/friend/family member. They told me they… want to die/they are worried someone is poisoning their food and stopped eating.

How do I get them evaluated for psychiatric help if they can't/will not go voluntarily?

Emergency Petition (EP)



Statutes guiding emergency evaluations and involuntary psychiatric commitment are different in every state!

In Maryland:

- An EP enables an individual to be brought to the ED for evaluation if they have a mental health disorder and demonstrate concerning behaviors (presenting a danger to life or safety of the individual or others).
- Not the same thing as a "72-hr hold"
- Doesn't guarantee a psychiatric admission
- Helps assist individuals whose mental illness makes them unable to recognize their need for treatment

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The Blame Game & Stigma

Anosognosia

Lack of awareness into one's own condition

#1 cause of delayed treatment in people with serious/severe mental illness (SMI)

Video[3] courtesy of Treatment Advocacy Center, https://www.treatmentadvocacycenter.org/index.php

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Emergency Petition Criteria

Mental illness - not intellectual disability and not substance use only

Danger - may be passive (not eating or drinking, neglect of medical conditions) or active (assault)

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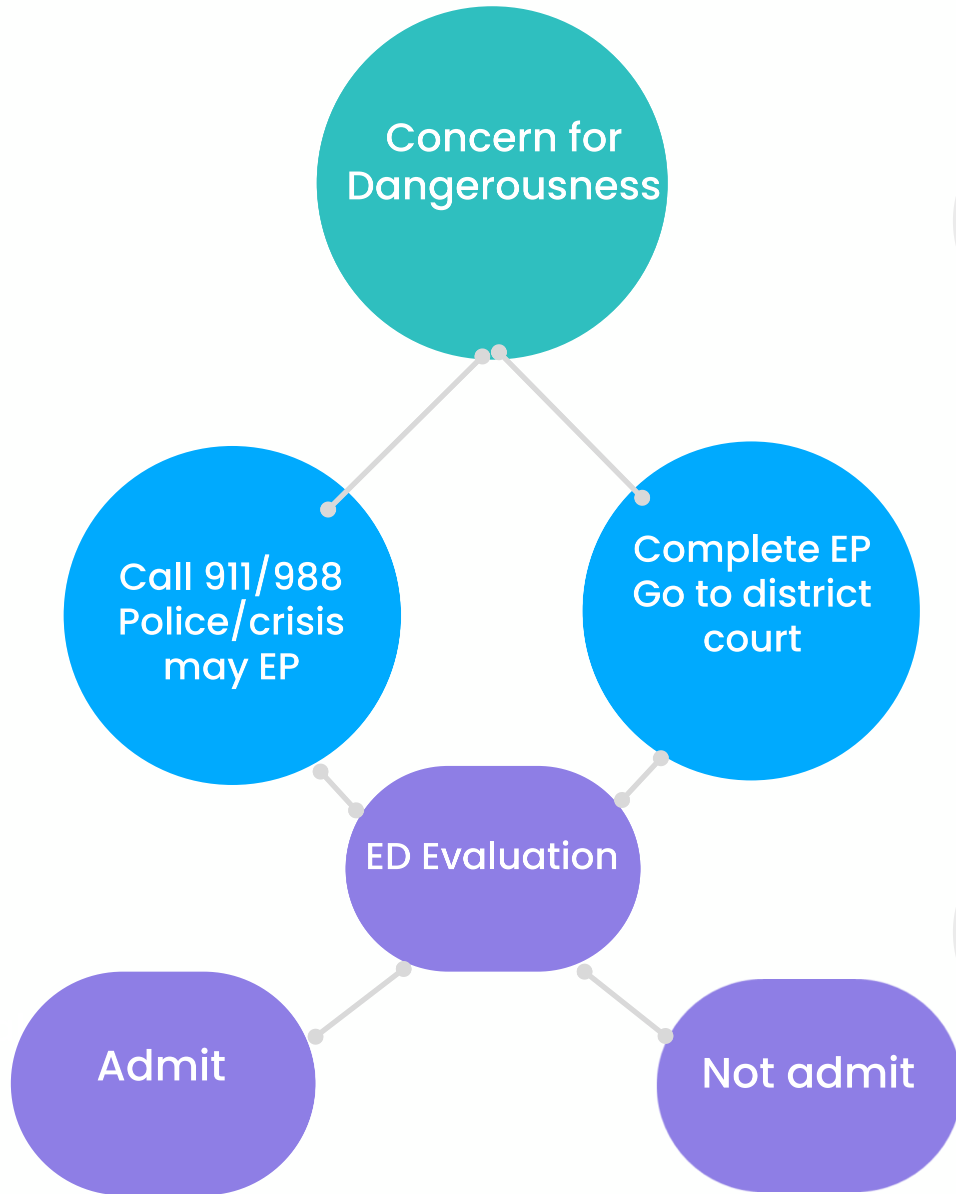
Emergency Evaluation Process



Concern 1

Reason to believe the individual has a mental disorder and presents a danger to the life or safety of the individual or of others. Concern for dangerousness: harm to self or others, not taking care of activities of daily living.

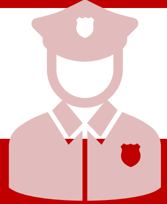
Complete Emergency Petition 2

If your situation requires immediate intervention, call 911. If you call 911, police officers will come and evaluate whether the person meets the emergency petition criteria. Can also call 988 and a mobile crisis team will respond if able.

Have an emergency evaluation 3

ED Evaluator will decide the appropriate treatment plan (inpatient vs outpatient vs day hospital).

Three Ways Someone Can Be Emergency Petitioned



1. Law Enforcement

- Can serve as petitioner AND transport, or just transport of evaluee if #2 or #3 processes enacted.
- If petitioner, must observe the evaluee (but not necessarily the behavior) to determine whether criteria are met
- Transports patient to the closest ED for eval

2. Qualifying Clinician

- Includes physicians, psych NPs (*not* Family NPs or other specialty APPs), psychologists, LCSW-Cs, LCPCs, LMFTs
- Must have personally examined the patient

3. Family Member/Loved One

- Requests an EP directly from the court. Judge will review, hear petitioner testimony, and decide whether the potential evaluee meets the statutory criteria.
- Least common means of EPs
- Once signed by the judge, the EP is given to law enforcement and is actionable/valid x 5 days only. Officers locate the evaluee and bring them to the nearest ED.

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☐ CIRCUIT COURT ☐ DISTRICT COURT OF MARYLAND FOR ____________ (City/County)

Located at ____________ (Court Address) Case No. ____________

In the Matter of ____________

PETITION FOR EMERGENCY EVALUATION
(Maryland Code, Health General Article § 10-620 et seq.)

The petitioner, ____________ (Name of Petitioner), requests that this court order an emergency evaluation of ____________ (Name of Person to be Evaluated (Evaluee)) and in support of this petition states as follows:

1. Petitioner: Address ____________
   Cell Phone/Pager # ________ Home Phone ________ Work Phone ________
   If petitioner is a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, or health officer or designee of a health officer who has examined the evaluee, then the petitioner's specialty is ________ and the petitioner's license number is ________.
   Relationship to or interest in evaluee ____________.
2. Evaluee: Address ____________ DOB ________
   Sex ____ Race ____ Ht. ____ Wt. ____ Hair ____ Eyes ____ Complexion ____
   Other ____________
3. If not petitioner, name of spouse, child, parent, or other relative, or other individual interested in the evaluee:
   Name ________ Relationship ________
   Address ____________
   Home Phone ________ Work Phone ________
4. A petition for emergency evaluation of the evaluee was filed previously on ________ (Date) and was ☐ granted ☐ denied.
5. The evaluee has been hospitalized in the past at the following facilities:
   ________ (When) ________ (Where) ________ (Diagnosis)
   ________ (When) ________ (Where) ________ (Diagnosis)
6. The evaluee currently is receiving psychiatric treatment from:
   ________ (Name) ________ (Address) ________ (Phone)
   ________ (Name) ________ (Address) ________ (Phone)
7. The evaluee has been prescribed the following medication for their mental disorder: ____________
8. The evaluee ☐ is ☐ **is not** taking the medication as prescribed **OR** ☐ I do not know whether the evaluee is taking medication as prescribed.
9. The evaluee is demonstrating the following behavior that leads me to conclude that they currently have a mental disorder: ____________ (Attach additional sheets if necessary)
10. The evaluee presents a danger to the life or safety of the evaluee or others because: ____________ (Attach additional sheets if necessary)
11. The evaluee has access to the following firearms/weapons: ____________

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

________ (Date) ________ (Petitioner)
________ (Fax) ________ (E-mail)

TO THE PETITIONER: You may be required to appear before the court. You have made the statements above under penalties of perjury. If an evaluation is ordered, it would be helpful if you could accompany the evaluee to the emergency facility and provide emergency facility authorities with all information that is pertinent to this petition. A petitioner who, in good faith and with reasonable grounds, submits or completes the Petition for Emergency Evaluation is not civilly or criminally liable for submitting or completing the petition.

Emergency Petition Form

https://www.courts.state.md.us/sites/default/files/court-forms/courtforms/joint/ccdc013.pdf/ccdc013.pdf

Cc-DC-013 (Rev. 12/09/2020)
Page 1

Filling out the EP

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   Relationship to or interest in evaluee ____ .
2. Evaluee: Address ____ DOB ____
   Sex ____ Race ____ Ht. ____ Wt. ____ Hair ____ Eyes ____ Complexion ____
   Other ____
3. If not petitioner, name of spouse, child, parent, or other relative, or other individual interested in the evaluee:
   Name ____ Relationship ____
   Address ____
   Home Phone ____ Work Phone ____
4. A petition for emergency evaluation of the evaluee was filed previously on ____ (Date)
   and was ☐ granted ☐ denied.

Petitioners:

- Physician, psychologist, LCSW-C, LCPC, psych NP, LMFT, or health officer or designee of health officer who has examined the individual

Filling out the EP

5. The evaluee has been hospitalized in the past at the following facilities:

When	Where	Diagnosis
When	Where	Diagnosis

6. The evaluee currently is receiving psychiatric treatment from:

Name	Address	Phone
Name	Address	Phone

7. The evaluee has been prescribed the following medication for their mental disorder:
8. The evaluee ☐ is ☐ **is not** taking the medication as prescribed **OR** ☐ I do not know whether the evaluee is taking medication as prescribed.
9. The evaluee is demonstrating the following behavior that leads me to conclude that they currently have a mental disorder: (Attach additional sheets if necessary)
10. The evaluee presents a danger to the life or safety of the evaluee or others because: (Attach additional sheets if necessary)
11. The evaluee has access to the following firearms/weapons:

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Date

Petitioner

Fax

E-mail

TO THE PETITIONER: You may be required to appear before the court. You have made the statements above under penalties of perjury. If an evaluation is ordered, it would be helpful if you could accompany the evaluee to the emergency facility and provide emergency facility authorities with all information that is pertinent to this petition. A petitioner who, in good faith and with reasonable grounds, submits or completes the Petition for Emergency Evaluation is not civilly or criminally liable for submitting or completing the petition.

- Your job is to draw a complete and vivid portrait of a person with disturbance in mental functioning so serious that the individual should be evaluated at the hospital
- Never be vague, very detailed!

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A. Duties of Peace Officer

1. Caution to Petitioner. A peace officer shall explain to a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, a licensed clinical marriage and family therapist, or a health officer or designee of a health officer, who presents a petition to the peace officer:

   a. the serious nature of the petition; and

   b. the meaning and content of the petition.

2. Delivery to Facility. To the extent practicable, a peace officer shall notify the emergency facility in advance that the peace officer is bringing an emergency evaluee to the emergency facility. A peace officer shall bring an evaluee to the nearest emergency facility if the officer has a petition that:

   a. has been endorsed by a court within the last five (5) days; or

   b. is signed and submitted by a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, a licensed clinical marriage and family therapist, or a health officer or designee of a health officer, or peace officer.

3. Documentation of Delivery. A peace officer shall complete a Return of Service by Peace Officer form (CC-DC-027) and have an agent for the emergency facility sign the form.

4. Remaining with Evaluee.

   a. After a peace officer brings an evaluee to an emergency facility, the officer need not stay unless, because the evaluee is violent, emergency facility personnel ask the supervisor of the peace officer to have the peace officer stay.

   b. A peace officer shall stay until the officer's supervisor responds to the request for assistance.

5. Return of Service. A peace officer shall file a completed Return of Service with the court issuing the Endorsement and Order immediately after an evaluee is delivered to an emergency facility or immediately after expiration of the five-day period for taking the evaluee into custody.

B. Duty of Supervisor. A supervisor shall allow a peace officer to stay with a violent evaluee.

C. Duties of Emergency Facility

1. Documentation of Delivery. An agent of the emergency facility shall sign the Return of Service by Peace Officer form completed by a peace officer transporting an evaluee to the emergency facility.

2. Examination. If emergency facility personnel ask that a peace officer stay, a physician shall examine the evaluee as promptly as possible to determine whether the evaluee meets the requirements for involuntary admission. In any event, a physician shall examine an evaluee within six (6) hours after an officer brings the evaluee to the emergency facility.

3. Release or Admission. Promptly after an examination, an evaluee shall be released unless the evaluee:

   a. asks for voluntary admission; or

   b. meets the requirements for involuntary admission.

4. Detention Period. An emergency evaluee may not be kept at an emergency facility for more than thirty (30) hours.

Emergency Petition Form

https://www.courts.state.md.us/sites/default/files/court-forms/courtforms/joint/ccdc013.pdf/ccdc013.pdf

Cc-DC-013 (Rev. 12/09/2020)
Page 2

You need another form!   Certification By Peace Officer

CERTIFICATION BY PEACE OFFICER

I am a ☐ sheriff, ☐ deputy sheriff, ☐ State police officer, ☐ county police officer, ☐ municipal or other local police officer, or ☐ Secret Service agent who is a sworn special agent of the United States Secret Service or Department of Homeland Security authorized to exercise powers delegated under 18 U.S.C. § 3056.

As to ______________ (Evaluee), I have personally observed the ☐Evaluee or ☐ Evaluee's behavior and, based on the ☐ observation or ☐ other information, have reason to believe that the Evaluee has a mental disorder and presents a danger to the life or safety of the Evaluee or others. Pursuant to Maryland Code, Health–General Article § 10-622, I have transported the Evaluee to ______________ ______________ (emergency facility) for evaluation.

______________ Date and Time

______________ Peace Officer

______________ Department   ID Number

CERTIFICATIONS BY OTHER PERSON QUALIFIED UNDER HG § 10-622 AND PEACE OFFICER

I am a ☐ physician, ☐ psychologist, ☐ clinical social worker, ☐ licensed clinical professional counselor, ☐ clinical nurse specialist in psychiatric and mental health nursing, ☐ psychiatric nurse practitioner, ☐ a licensed clinical marriage and family therapist, ☐ health officer or ☐ designee of a health officer. I have examined ______________ (Evaluee). Based on ☐ the examination or ☐ other information, I have reason to believe that the Evaluee has a mental disorder and presents a danger to the life or safety of the Evaluee or others and, in accordance with Maryland Code, Health–General Article § 10-622, have completed the attached Petition for Emergency Evaluation and have requested a peace officer to take into custody and transport the Evaluee to the nearest emergency facility for evaluation by a physician. The Peace Officer explained to me the serious nature, meaning, and content of the Petition and I asked the officer to proceed.

______________ Date and Time

______________ Physician or other Qualified Person under HG § 10-622

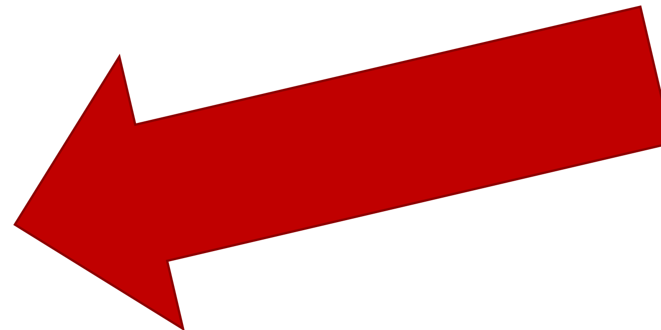
______________ License No.

I have explained to the Petitioner the serious nature of the Petition and the meaning and content of the Petition.

https://www.courts.state.md.us/sites/default/files/court-forms/courtforms/joint/ccdc014.pdf/ccdc014.pdf

CC-DC-014 (Rev. 12/2020)

Give to a peace officer – **you sign the bottom of the form**



Roadmap for Clinicians Filing EPs

Filling out the EP – Lessons Learned

- Be prepared – have an office policy, forms, etc.
- It takes time to complete the forms and have police pick up/you drop off the EP
- You want evaluators in the ED to call you for information; *your concern and information matters* so be available, give your cell phone
- Keep in mind the function of an EP - patients may be evaluated and discharged…they return to you
- Don’t use blue ink

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Mental Health Law & the EP Process

- Emergency evaluation statutes are some of the oldest risk reduction methods in mental health care
- EP documents *must* include a description of the person's behavior and statements, plus other info that led the petitioner to believe that the evaluee (a) has a mental disorder, and (b) presents a danger to the life or safety of the individual or others.
  - Does *not* require imminent danger
  - Specifically solicits petitioner's knowledge about evaluee having firearms bc of previous incidents
- 2022 legislative session --> SB2 passed to allow for electronic EP forms *and* electronic transmission of EP paperwork. Effective 10/1/22.

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Why the Rush? Can't You Just Wait Until They're Agreeable?

- Timely treatment is critical
  - Dangerous symptoms that risk the life or safety of the person or others constitute an emergency!
  - Treatment delays associated with neuronal damage, worsening sxs, poorer prognosis[1]
  - For pts with psychotic disorders, increase in duration of untreated psychosis from 1 week to 4 weeks associated with > 20% more severe symptoms[2]
- Prompt treatment of severe mental illness can minimize the social consequences of untreated SMI like homelessness, arrest, and incarceration.[3]
- Emergency petition processes allow for the transport of an evaluee to the nearest ED, even without their consent.

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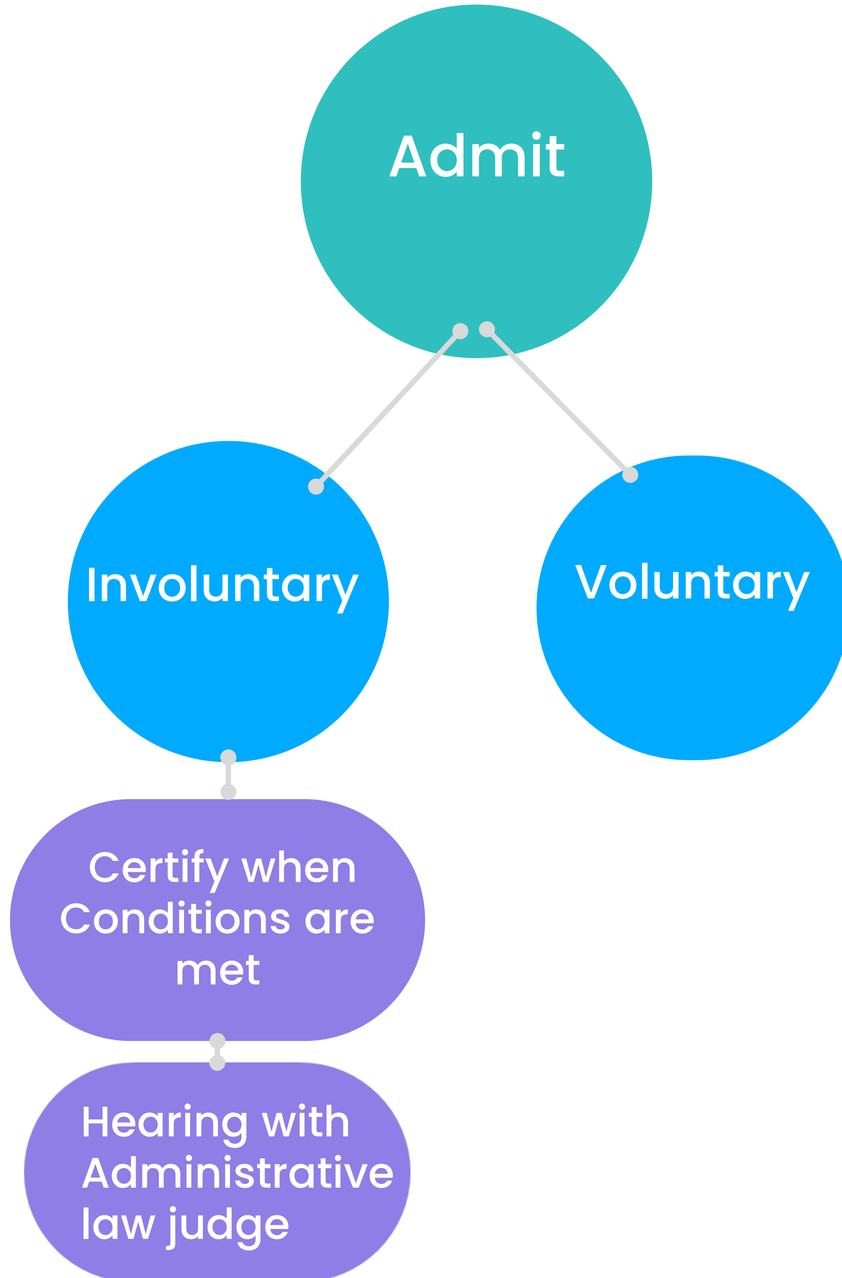
Admission Process



Met criteria for Admission 1

Voluntary vs. Involuntary 2

- Has a mental disorder;
- The mental disorder is susceptible to care or treatment
- The individual understands the nature of the request for treatment;
- The individual is able to give continuous assent to retention by the facility; and
- The individual is able to ask for release

Certify and Hearing 3

Certify if:

- Has a mental health condition *and*
- Needs inpatients care or treatment *and*
- Presents a danger to the life or safety of themselves or others *and*
- Is unable or unwilling to be voluntarily admitted *and*
- There is no available less restrictive form of intervention

Voluntary Admission Form

PHYSICIAN'S, PSYCHOLOGIST'S or PSYCHIATRIC NURSE PRACTITIONER'S ENDORSEMENT

I have examined ____, and I find that:

- ☐ The individual has a mental disorder;
- ☐ The mental disorder is susceptible to care or treatment;
- ☐ The individual understands the nature of the request for treatment;
- ☐ The individual is able to give continuous assent to retention by the facility; and
- ☐ The individual is able to ask for release.

☐ I certify that I am duly licensed to practice medicine in the State of Maryland, pursuant to the Health Occupations Article, §14-305, Annotated Code of Maryland.

☐ I certify that I am licensed under the Health Occupations Article, Title 18, Annotated Code of Maryland, to practice psychology in the State of Maryland.

☐ I certify that I am licensed under the Health Occupations Article, Title 8, Annotated Code of Maryland, to practice nursing as a psychiatric nurse practitioner in the State of Maryland.

Printed Name of Physician, Psychologist or Psychiatric Nurse Practitioner	Address		
Signature of Physician, Psychologist or Psychiatric Nurse Practitioner	Telephone Number	Date	Time

The services and programs of the Maryland Department of Health are provided on a non-discriminatory basis and in compliance with Article VI of the Civil Rights Act of 1964. Any complaints regarding alleged discrimination may be filed in writing with the Director, Behavioral Health Administration, Spring Grove Hospital Center, 55 Wade Avenue, Dix Building, Catonsville, MD 21228 and the Office of Civil Rights, U.S. Department of Health and Human Services, 150 S. Independence Mall West, Suite 372, Philadelphia, PA 19106-3499.

Application for Voluntary Admission must be on this form [Health-General Article, §10-609(b)(1)]

As of 2018, pts with guardians of person CAN be admitted voluntarily, as long as the person retains the capacity to understand the tenets of a voluntary application. There are separate voluntary applications for psych admission for disabled adults.

Voluntary Admission of a Disabled Adult

PHYSICIAN'S, PSYCHOLOGIST'S, OR PSYCHIATRIC NURSE PRACTITIONER'S
CERTIFICATE TO ACCOMPANY
APPLICATION FOR VOLUNTARY ADMISSION OF A DISABLED PERSON

I, ______________________________, of ______________________ ____________
Name of Physician, Psychologist, or Psychiatric Nurse Practitioner — Name of Facility or Office Address — Telephone Number

certify that on ___/___/20___, I personally examined:

Name of Disabled Person: ____________ (Last) ____________ (First) ____ (MI)

Address of Disabled Person:

____________ (Street) ____________ (City) ____ (State) ____________ (County) ____________ (Telephone Number)

____________ (Birth Date) ____ (Age) ____ (Sex) ____________ (Marital Status) ____________ (SS#)

Hispanic or Latino Origin: ☐ yes ☐ no

Race (check all applicable racial categories):

- ☐ American Indian or Alaska Native
- ☐ Asian
- ☐ Black or African American
- ☐ Native Hawaiian or other Pacific Islander
- ☐ White

Name of Guardian of the Person: ______________________________

Address ______________________________ (City, State, Zip) ____________ (Telephone Number)

THE DIAGNOSIS OF MENTAL DISORDER IS:

____

____

____

SYMPTOMS:

____

Catonsville, MD 21228

APPLICATION FOR VOLUNTARY ADMISSION OF A DISABLED PERSON

This application must be accompanied by two (2) Certificates - MDH Form #2B Physician's, Psychologist's or Psychiatric Nurse Practitioner's Certificate to Accompany Application for Voluntary Admission of a Disabled Person (Health-General Article, §10-611, Annotated Code of Maryland).

To the Administrative Head of: ______________________________
Name of Facility

I hereby apply for voluntary admission to your facility for the care or treatment of a mental disorder pursuant to the provisions of Health-General Article, §10-611, Annotated Code of Maryland, which has been explained and provided to me (See law printed on reverse of this form.)

____________________ Printed Name of Applicant — ____________________ Signature of Applicant

____________________ Address — ____________________ Date of Birth

____________________ Telephone Number — ____________________ Date — Time

Name of Guardian of the Person: ______________________________

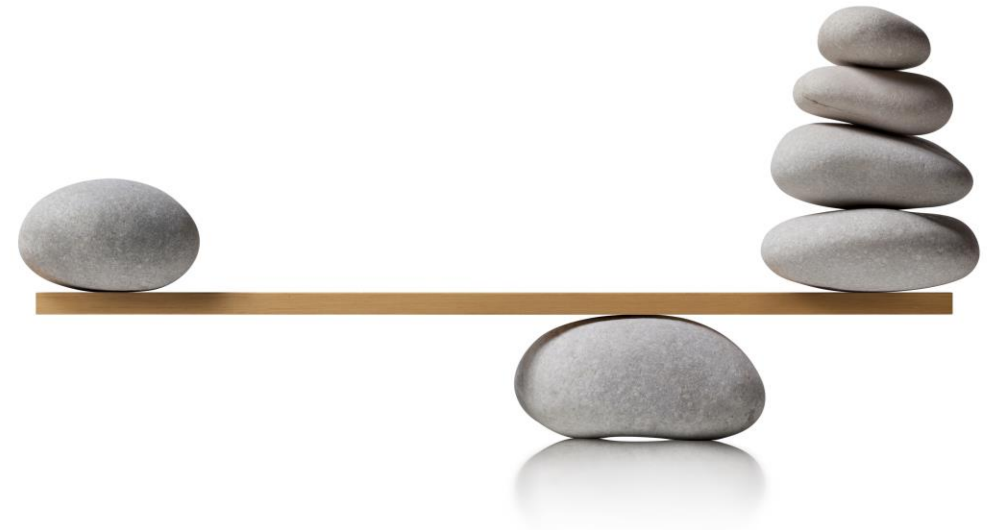
Address ______________________________ (City, State, Zip) ____________ (Telephone Number)

Involuntary Psychiatric Hospitalization & Civil Commitment

- Maryland is very patient rights centered, one of only 3 states in the country without an enforceable outpatient civil commitment statute

- Challenging balance between need for treatment and individual rights, especially when anosognosia is so prevalent

  - 2012 analysis of state Medicaid data showed that **< 1% of the population of Marylanders with SMI accounted for 25% of *all* ED visits that year**
  - Not uncommon for folks with SMI to go to local EDs > 6 times each year
  - Would the patient make the same choice to avoid treatment if they had insight into their illness and its consequences??



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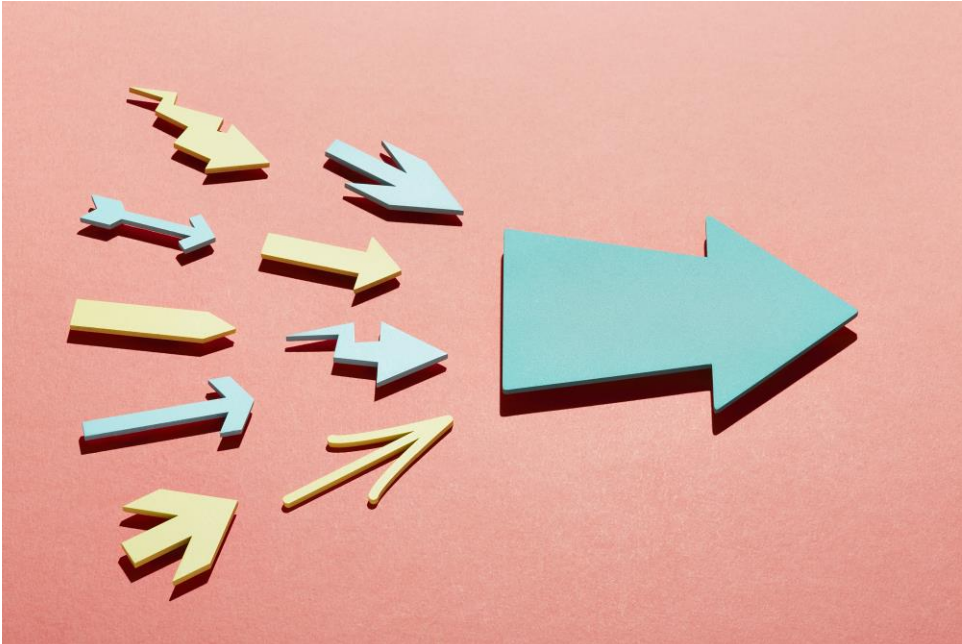
Involuntary Psychiatric Hospitalization & Civil Commitment



- Involuntary admission only the 1st step in commitment process
- Involuntarily admitted pts must have a hearing with an administrative law judge (ALJ) within 10 days of their confinement on the inpatient unit to determine whether they meet state criteria for involuntary commitment
  - Confinement as a “legal” and temporarily restriction of civil rights, so must be checked by judicial authority
  - ALJ hearing ensures that processes have been followed accurately, confirms pt rights weren’t further limited or violated during the process of involuntary admission
  - Hearings currently virtual only (due process??)
  - Possible hearing outcomes: postponement, retained, released on merit, released on technicality

Civil Commitment Process

- Not everyone who's admitted involuntarily will have a civil commitment hearing
- Inpatient team determines legal course based on situational, administrative, and clinical factors. The team can choose to:
  - **Postpone** the IVA hearing - Need more time to get to know the patient and determine recommended care
  - Offer a **voluntary** application for admission (which cancels the IVA hearing) – If pt providing continuous assent to care, taking meds, going to groups, not being aggressive, etc.
  - Proceed with the **civil commitment hearing** if the pt meets IVA criteria (often pts aren't taking meds or engaging in care either)

Civil Commitment Process

- Hearings occur on designated days at each civil and forensic facility/unit in the state
- Hearing structure:
  - Hospital represented by a lay person trained in the hearings (usually not an attorney).
  - Pt can hire a private attorney, represent themselves, or make use of free representation by the Office of Public Defender (Mental Health division).
  - ALJ hears testimony and arguments on the technical and clinical aspects of pt’s admission.
  - Burden of proof is on the hospital, which has to prove by “clear and convincing evidence” that the patient has met the criteria for admission.

Civil Commitment Process

- Civil commitment criteria:
  - Do they have a mental illness?
  - Do they require inpatient level of care?
  - Are they a danger to themselves and/or others?
  - Are they unwilling or unable to be a voluntary patient?
  - Has the patient failed a less restrictive level of care?

- Family members and outpatient providers may be asked to provide testimony during the IVA hearing. Anyone testifying (including loved ones, physicians, the patient, etc.) will undergo direct examination by the hospital representative and be cross-examined by the PD.
- Testimonies are given under oath. Physicians may be qualified as expert witnesses in their field prior to testifying. Hearsay is admissible bc of the administrative nature of the hearing.

Does Civil Commitment Reduce Risk of Future Violence?

- ALJs must consider the firearms provision in Health-General §10-632(i):
  - Allows the ALJ in a second finding based only on dangerousness *to others* to "order the individual….to (1) surrender to law enforcement authorities any firearms in the individual's possession; and (2) refrain from possessing a firearm unless…granted relief from firearms disqualification…."
  - The statute, as written, does **not** permit the ALJ to order surrender of firearms based solely on dangerousness to self (may be that's where an ERPO could come in handy!). Such individuals are reported to the Maryland Department of Health (MDH), which manages a database concerning them. MDH in turn reports to both the State Police (who enforce the Public Safety Article) and to the FBI (who enforce federal restrictions, which differ slightly from state restrictions).
- Individuals subject to any of the above restrictions can petition for relief, formally requesting that their rights to possess firearms be returned. This is managed by the MDH Office of Court Ordered Evaluation and Placement (formerly, the Office of Forensic Services).

EP vs. ERPO

- Duty to protect: §5-609 of the Courts and Judicial Proceedings article of the Annotated Code
  - Healthcare providers cannot be held liable for the action of a patient unless "the patient indicated… by speech, conduct, or writing [his/her] intention to inflict imminent physical injury upon a specified victim or group of victims."
  - If risk is imminent, provider has three (3) options to take protective action:
    - Seek civil commitment (EP the patient)
    - "Formulate a diagnostic impression and establish and undertake a documented treatment plan calculated to eliminate the possibility that the patient will carry out the threat;" or
    - "Inform the appropriate law enforcement agency and, if feasible, the specified victim or victims of:
      - "The nature of the threat;
      - "The identity of the patient making the threat; and
      - "The identity of the specified victim or victims."
  - §5-609 protects healthcare providers from liability regarding violating the patient's confidentiality if act in good faith, regardless of the course of action we choose to take

Extreme Risk Protective Order (ERPO)

- Extreme Risk Protective Order (ERPO) – Maryland's Red Flag law (est. 2017)
  - 13th state to pass a law allowing temporary restriction of access to firearms if someone poses a risk to others
  - Can be filed by spouse, any relative by blood/marriage/adoption, a co-parent, a current or former intimate or dating partner, current or former guardian, a law enforcement officer, or a medical professional who's examined the individual (MD was 1st state to include clinicians in the list of people who can file an ERPO)
  - ERPO can include an EP as part of the process, but this not required
    - ERPO alone does not require the petitioner to cite the cause of the risk.
    - ERPO must include information regarding the person's "behavior that leads me to believe he/she presents an **immediate and present danger** of causing personal injury to himself/herself, to me, or to others by possessing a firearm." There are several optional forms that may be appended to the petition (available online).
    - Forms must be filed at the District Court with the clerk (during business hours) or a District Court Commissioner (after hours). The petitioner is required to appear at a hearing. Under the statute, the commissioner or judge reviewing the petition must consider whether an EP is appropriate and, if so, to take appropriate action.
- Oct 2018 (first month of ERPO): 114 ERPO petitions filed, only 1 filed by a clinician[5]
- Gun in the home = triples the risk of suicide, doubles the risk of homicide[6]
- Maryland's red flag law currently ranked by Everytown as the #7 strongest gun law in the country

Should You File an ERPO if Your Patient is Unstable and Has a Firearm?

- ERPO statutes provide liability protection for providers who file an ERPO in good faith, regardless of outcome
- ERPO does *not* provide similar protection for providers who opt *not* to file an ERPO for whatever reason
  - Per Dr. Erik Roskes, forensic psychiatrist – "Providers [who] elect *not* to file an ERPO should document their reasoning in detail, noting that they have elected another course of action to mitigate the risk of harm (such as seeking civil commitment or an EP). One attorney I spoke with surmised that following the path laid out in the "Duty to Protect" section above *should* afford the provider the protection of the good-faith provision therein. Maryland Appellate law provides similar protection to providers who elect *not* to involuntarily commit a patient after making a decision that commitment criteria have not been met, expressly to eliminate any incentive that providers might curtail patients' liberty interests merely to avoid liability.[1]
- Opportunities for process improvement:
  - ERPO petitions must be filed by the petitioner in district court
  - Burden on the petitioner, who can expect to testify at up to three (3) subsequent court hearings

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ERPOs and Violence Prevention

Suicide
581

Firearms were the most frequently used method of suicide in people aged 15-64 yrs old. 17,820 (48%) of people who suicided used a firearm.

Firearms were the #2 method of injury in the 10-14 yr old group (224 kids), behind suffocation.

	<1	1-4	5-9	10-14	15-24	25-34	35-44	45-54	55-64	65+	All Ages
1	Congenital Anomalies 4,043	Unintentional Injury 1,153	Unintentional Injury 685	Unintentional Injury 881	Unintentional Injury 15,117	Unintentional Injury 31,315	Unintentional Injury 31,057	Malignant Neoplasms 34,589	Malignant Neoplasms 110,243	Heart Disease 556,665	Heart Disease 696,962
2	Short Gestation 3,141	Congenital Anomalies 382	Malignant Neoplasms 382	Suicide 581	Homicide 6,466	Suicide 8,454	Heart Disease 12,177	Heart Disease 34,169	Heart Disease 88,551	Malignant Neoplasms 440,753	Malignant Neoplasms 602,350
3	Sids 1,389	Homicide 311	Congenital Anomalies 171	Malignant Neoplasms 410	Suicide 6,062	Homicide 7,125	Malignant Neoplasms 10,730	Unintentional Injury 27,819	Covid-19 42,090	Covid-19 282,836	Covid-19 350,831
4	Unintentional Injury 1,194	Malignant Neoplasms 307	Homicide 169	Homicide 285	Malignant Neoplasms 1,306	Heart Disease 3,984	Suicide 7,314	Covid-19 16,964	Unintentional Injury 28,915	Cerebrovascular 137,392	Unintentional Injury 200,955
5	Maternal Pregnancy Comp. 1,116	Heart Disease 112	Heart Disease 56	Congenital Anomalies 150	Heart Disease 870	Malignant Neoplasms 3,573	Covid-19 6,079	Liver Disease 9,503	Chronic Low. Respiratory Disease 18,816	Alzheimer's Disease 132,741	Cerebrovascular 160,264
6	Placenta Cord Membranes 700	Influenza & Pneumonia 84	Influenza & Pneumonia 55	Heart Disease 111	Covid-19 501	Covid-19 2,254	Liver Disease 4,938	Diabetes Mellitus 7,546	Diabetes Mellitus 18,002	Chronic Low. Respiratory Disease 128,712	Chronic Low. Respiratory Disease 152,657
7	Bacterial Sepsis 542	Cerebrovascular 55	Chronic Low. Respiratory Disease 54	Chronic Low. Respiratory Disease 93	Congenital Anomalies 384	Liver Disease 1,631	Homicide 4,482	Suicide 7,249	Liver Disease 16,151	Diabetes Mellitus 72,194	Alzheimer's Disease 134,242
8	Respiratory Distress 388	Perinatal Period 54	Cerebrovascular 32	Diabetes Mellitus Influenza & Pneumonia 50	Diabetes Mellitus 312	Diabetes Mellitus 1,168	Diabetes Mellitus 2,904	Cerebrovascular 5,686	Cerebrovascular 14,153	Unintentional Injury 62,796	Diabetes Mellitus 102,188
9	Circulatory System Disease 386	Septicemia 43	Benign Neoplasms 28		Chronic Low. Respiratory Disease 220	Cerebrovascular 600	Cerebrovascular 2,008	Chronic Low. Respiratory Disease 3,538	Suicide 7,160	Nephritis 42,675	Influenza & Pneumonia 53,544
10	Neonatal Hemorrhage 317	Benign Neoplasms 35	Suicide 20**	Cerebrovascular 44	Complicated Pregnancy 191	Complicated Pregnancy 594	Influenza & Pneumonia 1,148	Homicide 2,542	Influenza & Pneumonia 6,295	Influenza & Pneumonia 42,511	Nephritis 52,547

10 leading causes of death in the U.S. in 2020 (CDC)

https://wisqars.cdc.gov/data/lcd/home

- Suicide was a top 10 cause of death in 7 of 10 age categories (36,840 people)

ERPOs and Violence Prevention

Homicide
311

Firearms were the **most frequently used method of homicide** in people aged 5-54 yrs old.

17,831 (83%) of homicides were committed with a firearm.

Firearms were the #2 method of injury in the 1-4 yr old group (75 kids), behind “unspecified.”

	<1	1-4	5-9	10-14	15-24	25-34	35-44	45-54	55-64	65+	All Ages
1	Congenital Anomalies 4,043	Unintentional Injury 1,153	Unintentional Injury 685	Unintentional Injury 881	Unintentional Injury 15,117	Unintentional Injury 31,315	Unintentional Injury 31,057	Malignant Neoplasms 34,589	Malignant Neoplasms 110,243	Heart Disease 556,665	Heart Disease 696,962
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10	Neonatal Hemorrhage 317	Benign Neoplasms 35	Suicide 20**	Cerebrovascular 44	Complicated Pregnancy 191	Complicated Pregnancy 594	Influenza & Pneumonia 1,148	Homicide 2,542	Influenza & Pneumonia 6,295	Influenza & Pneumonia 42,511	Nephritis 52,547

10 leading causes of death in the U.S. in 2020 (CDC)

https://wisqars.cdc.gov/data/lcd/home

- Homicide was the cause of death for **21,380 people in the U.S. in 2020**. It was a top 10 cause of death for people aged 1-54 yrs old.

ERPOs and Violence Prevention

- Oldest red flag law in the U.S. = Connecticut (1999)
  - Risk-Based Gun Removal Law
  - Estimated by policy researchers to have saved 1 life for every 10.6 guns seized[7]
- Indiana: Red flag law reduced firearm suicides by an estimated 7.5% over 10 years, without an increase in suicides by other means[8]
- Lots of data about gun suicides and firearm removal laws on the Everytown site and its affiliates, https://everytownresearch.org/report/gun-suicide-city-gun-violence/

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Questions?

Thanks!