

HOUSE BILL 91

J2, J1

(PRE-FILED)

4r0534
CF 4r0991

By: **Delegate Cardin**

Requested: September 24, 2013

Introduced and read first time: January 8, 2014

Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Health Occupations – Sexual Orientation Change Efforts – Prohibited

FOR the purpose of prohibiting certain mental health care practitioners from engaging in certain sexual orientation change efforts with certain patients; providing that a certain mental health care practitioner who engages in certain sexual orientation change efforts with a certain patient shall be considered to have engaged in unprofessional conduct and shall be subject to discipline by a certain licensing board; defining certain terms; and generally relating to the prohibition of sexual orientation change efforts.

BY adding to

Article – Health Occupations

Section 1–212.1

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

Preamble

WHEREAS, The major professional associations of mental health practitioners and researchers in the United States have recognized that being lesbian, gay, or bisexual is not a disease, a disorder, an illness, a deficiency, or a shortcoming for nearly 40 years; and

WHEREAS, The American Psychological Association convened a Task Force on Appropriate Therapeutic Responses to Sexual Orientation conducted with a systematic review of peer-reviewed journal literature on sexual orientation change efforts that concluded in its report of 2009 that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people, including confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, suicidal intentions, substance abuse, stress, disappointment, self-blame, decreased self-esteem and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



authenticity to others, increased self-hatred, hostility and blame toward parents, feelings of anger and betrayal, loss of friends and potential romantic partners, problems in sexual and emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling of being dehumanized and untrue to self, a loss of faith, and a sense of having wasted time and resources; and

WHEREAS, The American Psychological Association issued a resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in 2009 stating that it “advises parents, guardians, young people, and their families to avoid sexual orientation change efforts that portray homosexuality as a mental illness or developmental disorder and to seek psychotherapy, social support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth”; and

WHEREAS, The American Psychiatric Association stated in 2009 that “psychotherapeutic modalities to convert or ‘repair’ homosexuality are based on developmental theories whose scientific validity is questionable. Furthermore, anecdotal reports of ‘cures’ are counterbalanced by anecdotal claims of psychological harm. In the last four decades, ‘reparative’ therapists have not produced any rigorous scientific research to substantiate their claims of cure. Until there is such research available, the American Psychiatric Association recommends that ethical practitioners refrain from attempts to change individuals’ sexual orientation, keeping in mind the medical dictum to first, do no harm”; and

WHEREAS, The American Psychiatric Association also stated in 2009 that “the potential risks of reparative therapy are great, including depression, anxiety, and self-destructive behavior, since therapist alignment with societal prejudices against homosexuality may reinforce self-hatred already experienced by the patient. Many patients who have undergone reparative therapy relate that they were inaccurately told that homosexuals are lonely, unhappy individuals who never achieve acceptance or satisfaction. The possibility that the person might achieve happiness and satisfying interpersonal relationships as a gay man or lesbian is not presented, nor are alternative approaches to dealing with the effects of societal stigmatization discussed”; and

WHEREAS, The American Psychiatric Association further stated in 2009 that it “opposes any psychiatric treatment such as reparative or conversion therapy which is based upon the assumption that homosexuality per se is a mental disorder or based upon the a priori assumption that a patient should change his/her sexual homosexual orientation”; and

WHEREAS, The American Academy of Pediatrics in 1993 published an article in its journal “Pediatrics” stating “[t]herapy directed at specifically changing sexual orientation is contraindicated, since it can provoke guilt and anxiety while having little or no potential for achieving changes in orientation”; and

WHEREAS, The National Association of Social Workers prepared a 1997 policy statement in which it stated “[s]ocial stigmatization of lesbian, gay, and bisexual people is widespread and is a primary motivating factor in leading some people to seek sexual orientation changes. Sexual orientation conversion therapies assume that homosexual orientation is both pathological and freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in fact, they may be harmful”; and

WHEREAS, The American Counseling Association Governing Council issued a position statement in April 1999 that stated it opposed the promotion of reparative therapy as a “cure” for homosexual individuals; and

WHEREAS, The American Psychoanalytic Association issued a position statement in June 2012 regarding attempts to change sexual orientation, gender identity, or gender expression, and in the position statement the Association states “as with any societal prejudice, bias against individuals based on actual or perceived sexual orientation, gender identity or gender expression negatively affects mental health, contributing to an enduring sense of stigma and pervasive self-criticism through the internalization of such prejudice”; and

WHEREAS, The American Psychoanalytic Association also stated in June 2012 that “psychoanalytic technique does not encompass purposeful attempts to ‘convert,’ ‘repair,’ change or shift an individual’s sexual orientation, gender identity or gender expression. Such directed efforts are against fundamental principles of psychoanalytic treatment and often result in substantial psychological pain by reinforcing damaging internalized attitudes”; and

WHEREAS, The American Academy of Child and Adolescent Psychiatry published in 2012 an article in its journal entitled “The Journal of the American Academy of Child and Adolescent Psychiatry”, stating “[c]linicians should be aware that there is no evidence that sexual orientation can be altered through therapy, and that attempts to do so may be harmful. There is no empirical evidence adult homosexuality can be prevented if gender nonconforming children are influenced to be more gender conforming. Indeed, there is no medically valid basis for attempting to prevent homosexuality, which is not an illness. On the contrary, such efforts may encourage family rejection and undermine self-esteem, connectedness and caring, important protective factors against suicidal ideation and attempts. Given that there is no evidence that efforts to alter sexual orientation are effective, beneficial, or necessary, and the possibility that they carry the risk of significant harm, such interventions are contraindicated”; and

WHEREAS, The Pan American Health Organization, a regional office of the World Health Organization, issued a statement in May 2012 that states “[t]hese supposed conversion therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements”; and

WHEREAS, The Pan American Health Organization also noted that reparative therapies “lack medical justification and represent a serious threat to the health and well-being of affected people”; and

WHEREAS, Maryland has a compelling interest in protecting the physical and psychological well-being of minors and in protecting minors against exposure to serious harm caused by sexual change efforts; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

1-212.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “MENTAL HEALTH CARE PRACTITIONER” MEANS:

(I) A HEALTH CARE PRACTITIONER LICENSED OR CERTIFICATED UNDER TITLE 14, TITLE 17, TITLE 18, OR TITLE 19 OF THIS ARTICLE; OR

(II) A HEALTH CARE PRACTITIONER LICENSED OR CERTIFICATED UNDER THIS ARTICLE WHO IS AUTHORIZED TO PROVIDE MENTAL HEALTH SERVICES BY THE HEALTH CARE PRACTITIONER’S LICENSING BOARD.

(3) “SEXUAL ORIENTATION” HAS THE MEANING STATED IN § 10-301 OF THE CRIMINAL LAW ARTICLE.

(4) (I) “SEXUAL ORIENTATION CHANGE EFFORT” MEANS A PRACTICE BY A MENTAL HEALTH CARE PRACTITIONER THAT SEEKS TO CHANGE AN INDIVIDUAL’S SEXUAL ORIENTATION.

(II) “SEXUAL ORIENTATION CHANGE EFFORT” INCLUDES REPARATIVE THERAPY, CONVERSION THERAPY, AND ANY EFFORT TO CHANGE THE BEHAVIORAL EXPRESSION OF AN INDIVIDUAL’S SEXUAL ORIENTATION, CHANGE GENDER EXPRESSION, OR ELIMINATE OR REDUCE SEXUAL OR ROMANTIC ATTRACTION OR FEELING TOWARD INDIVIDUALS OF THE SAME SEX.

(III) “SEXUAL ORIENTATION CHANGE EFFORT” DOES NOT INCLUDE:

1. A PRACTICE BY A MENTAL HEALTH CARE PRACTITIONER THAT:

A. PROVIDES ACCEPTANCE, SUPPORT, AND UNDERSTANDING, OR THE FACILITATION OF COPING, SOCIAL SUPPORT, AND IDENTITY EXPLORATION AND DEVELOPMENT, INCLUDING SEXUAL ORIENTATION-NEUTRAL INTERVENTIONS TO PREVENT OR ADDRESS UNLAWFUL CONDUCT OR UNSAFE SEXUAL PRACTICES; AND

B. DOES NOT SEEK TO CHANGE SEXUAL ORIENTATION; OR

2. COMMUNICATION BY A MENTAL HEALTH CARE PRACTITIONER:

A. DISCUSSING SEXUAL ORIENTATION OR SEXUAL ORIENTATION CHANGE EFFORT;

B. EXPRESSING THE MENTAL HEALTH CARE PRACTITIONER'S VIEWPOINT REGARDING SEXUAL ORIENTATION OR SEXUAL ORIENTATION CHANGE EFFORT; OR

C. RECOMMENDING SEXUAL ORIENTATION CHANGE EFFORTS TO PATIENTS OR REFERRING PATIENTS TO UNLICENSED INDIVIDUALS, SUCH AS RELIGIOUS LEADERS.

(B) A MENTAL HEALTH CARE PRACTITIONER MAY NOT ENGAGE IN SEXUAL ORIENTATION CHANGE EFFORTS WITH A PATIENT WHO IS A MINOR.

(C) A MENTAL HEALTH CARE PRACTITIONER WHO ENGAGES IN SEXUAL ORIENTATION CHANGE EFFORTS WITH A PATIENT WHO IS A MINOR SHALL BE CONSIDERED TO HAVE ENGAGED IN UNPROFESSIONAL CONDUCT AND SHALL BE SUBJECT TO DISCIPLINE BY THE HEALTH CARE PRACTITIONER'S LICENSING BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.