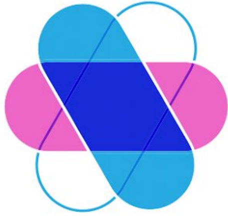
TransHealthcare_Lee_Blinder_FAV_SB 738

Uploaded by: Blinder, Lee

Position: FAV



Trans Healthcare Maryland

because you shouldn't have to know more than your doctor.

SUPPORT SB 738
February 25, 2020

Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services

Esteemed chair, vice chair, and members of the Health and Government Operations Committee. My name is Lee Blinder and I am the executive director of Trans Healthcare MD. We're an organization devoted to the wellbeing of transgender persons in the state of Maryland. For the last 2 years we have gathered stories of the treatment of our community members in health care facilities, currently not protected by the Fairness for All Marylanders Act of 2014 which added gender identity protections in places of public accommodation. Because there are no federal protections for gender identity, Marylanders are protected only when we codify those protections in our home state.

Our organization's membership of over 600 trans Marylanders has supported one another through many situations around accessing basic health care. From routine insurance denials for hormone replacement therapy, a lifesaving medical approach that some transgender persons need, to medically necessary surgery denials by insurance, the stories we hear are powerful reminders of the hierarchies of access, particularly for those who cannot cash pay for healthcare. Ensuring rules are in place to prohibit discrimination on the basis of gender identity would positively impact trangender Marylander's lives. I have spoken with several transgender men who have seen an endocrinologist in Baltimore who demands to inspect their genitals yearly, which is not part of any routine exam for an endocrinologist. Endocrinologists treat the endocrine system and provision hormone replacement therapy, this is unrelated to anyone's genitals. These exams are medically unnecessary, and cause the patient much anxiety. This provider even forced such an exam on one patient, refusing to allow the patient to deny the exam in order to be treated for their endocrine system disorder.

I am insured via the Maryland Health Connection, and I personally experience denials by my insurance plan regularly when I am attempting to fill my prescription for hormone replacement therapy, which is a medically necessary and lifesaving medication. I am lucky enough to see an experienced provider now whose office has enough staff to successfully appeal those denials, but many of my fellow community members aren't so lucky. I also was regularly misgendered by my former provider based in Montgomery County, and that provider made many excuses for why this kept occurring, without correcting the behavior. It made going to the doctor an

exhausting and negative experience. I educate for a living, but it's impossible to educate when the other party isn't willing to learn.

For these reasons and more I ask the committee to provide a favorable report on SB 738. Thank you.

Lee Blinder
Lee@TransHealthcareMD.org

Daniel_Bruner_WhitmanWalker_FAV_SB738
Uploaded by: Bruner, Daniel
Position: FAV

WHITMAN-WALKER HEALTH

Mailing Address:
Whitman-Walker at LIZ
1377 R Street, NW, Suite 200
Washington, DC 20009

**BEFORE THE MARYLAND SENATE
COMMITTEE ON FINANCE**

**Testimony of Whitman-Walker Health in Support of Senate Bill 738
Health Care Providers and Health Benefit Plans – Discrimination in Provision of Services
February 26, 2020**

Whitman-Walker Health (WWH or Whitman-Walker) is pleased to offer these comments in support of Senate Bill 738, which would prohibit discrimination by hospitals, regulated health insurance providers and plans, and licensed or regulated health care providers.

Whitman-Walker is a community-based, nonprofit health care center offering health care and health and wellness-related services to residents of the greater Washington, DC metropolitan area, including the nearby Maryland counties and Virginia counties and cities. We offer primary medical care and HIV specialty care; mental health and addiction treatment services; dental care; medical adherence case management; testing and prevention services for HIV and sexually transmitted infections; and legal services. In calendar year 2018, our health care patients included 3,616 Maryland residents.

Whitman-Walker's patient population is quite diverse and reflects our commitment to be a health care home for individuals and families that have experienced stigma and discrimination, or have otherwise encountered challenges in obtaining affordable, high-quality health care. WWH has a special mission to serve lesbian, gay, bisexual, transgender and nonbinary, and queer or questioning (LGBTQ) individuals and families throughout the metropolitan area. In calendar year 2019, 60% of our health care patients and clients who provided their sexual orientation identified as lesbian, gay, bisexual, or otherwise non-heterosexual. Of these patients, 1,667 individuals were residents of Maryland. This was 61% of our total Maryland patients who provided their sexual orientation.

Whitman-Walker is a major provider of health care to transgender and nonbinary persons in the Mid-Atlantic – and in the entire nation. In 2019, our health care patients included 2,148 transgender and nonbinary persons – 10% of our entire patient population. Twenty-six percent of our transgender and nonbinary patients – 556 individuals – were Maryland residents. Our reputation as a welcoming medical home for persons of every gender and sexual orientation, and our expertise in gender-affirming care, attracts patients not only from Maryland, Virginia and the District of Columbia, but also from Delaware, Pennsylvania and West Virginia.

Whitman-Walker Legal Services was established in 1986 to provide pro bono legal assistance on matters related to HIV/AIDS, and today offers assistance to LGBTQ individuals and families regardless of HIV status, and to health care patients at WWH regardless of HIV status, sexual orientation, and gender identity. We provide legal representation on a wide range of issues including discrimination in employment and health care; federal, state and local public benefits programs; disability insurance; immigration; medical confidentiality; and name and gender marker changes in legal records for transgender and nonbinary individuals. The work of WWH Legal Services is critical to the health center's mission of providing comprehensive, integrated health care and related services to people living with HIV, the LGBT community, and others who rely on WWH for health care. Our Legal Services attorneys and paralegals are experts in transgender law. In calendar year 2019, we provided legal advice and assistance to 545 clients who identified as transgender, nonbinary, genderqueer or otherwise as non-cisgender – 21% of our total legal clients. One hundred thirty of those individuals – 24% of all our non-cisgender legal clients – were Maryland residents. Of the legal clients living in Maryland who provided information about their sexual orientation, 62% identified as gay, lesbian, bisexual or otherwise not heterosexual – 191 individuals.

Whitman-Walker also has a vibrant research arm that has investigated LGBTQ health and wellness issues, as well as research into HIV treatment and prevention, for many years.

Whitman-Walker strongly supports Senate Bill 738, which would clearly prohibit discrimination by hospitals, licensed or otherwise regulated health care providers, and regulated health insurance providers and plans because of race, color, national origin, religion, sex, age, disability, genetic information, sexual orientation, gender identity or marital status. Such discrimination is not only harmful to the individuals and families directly affected, but also harmful to the public health, and exacerbates the health disparities that continue to warp our society and health care system. Our testimony here is focused on the need for laws addressing health care and health insurance discrimination against LGBTQ individuals and families.[1]

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[1] Section 1557 of the federal Affordable Care Act prohibits discrimination on the basis of race, color, national origin, sex, age, or disability, by health care institutions, providers and health plans that receive federal financial assistance. However, the applicability of the federal statute to discrimination based on sexual orientation and gender identity is currently unsettled – in large part due to the hostility of the Trump Administration. Moreover, Senate Bill 738 has a significantly broader reach – it would apply to many institutions, providers and health plans regardless of federal funding, and would reach forms of discrimination not addressed by ACA Section 1557.

Discrimination by health care institutions, providers and staff. Sadly, discrimination by health care providers, staff and institution against LGBTQ people continues to be pervasive.[2] Discrimination, and fear of discrimination which discourages LGBTQ people from seeking health care, contributes to the many health disparities that LGBTQ people live with, including higher rates of depression, anxiety and other mental health challenges; delays in detecting cancers and other serious health issues, and poorer treatment outcomes; higher rates of sexually transmitted diseases; eating disorders and weight issues; and untreated substance abuse issues, which create risks of heart, lung and liver disease, hypertension, and certain cancers.[3]

Whitman-Walker physicians, nurses and other medical providers, therapists and counselors, attorneys and paralegals, hear many accounts from LGBTQ patients and legal clients of discriminatory experiences in hospitals, clinics, doctors' offices and other health care settings. These experiences are not only offensive and upsetting to our patients and clients; they also are damaging to health. Discriminatory incidents delay or deny needed health care, and discourage LGBT individuals from seeking care and from fully disclosing personal information that health care providers need for proper diagnosis and treatment. Patients come to Whitman-Walker sicker than they would otherwise be; their negative experiences outside Whitman-Walker make them distrustful of health care providers and reluctant to fully engage in treatment; and also make it more challenging for Whitman-Walker providers to make appropriate referrals for specialty care that we do not provide.

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[2] For surveys of experiences of LGBT patients with health care providers, see, e.g.:

- James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M, *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality (2016), available at http://www.ustranssurvey.org/report, pp. 96-99, 108-11.
- National Senior Citizens Law Center *et al.,* LGBT OLDER ADULTS IN LONG-TERM CARE FACILITIES: STORIES FROM THE FIELD (2011),available at HTTP://WWW.LGBTAGINGCENTER.ORG/RESOURCES/RESOURCE.CFM?R=54.
- *When Health Care Isn't Caring: Lambda Legal's Survey of Discrimination Against LGBT People and People with HIV* (2010), available at www.lambdalegal.org/health-care-report.

[3] See, e.g.:

- Institute of Medicine, THE HEALTH OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE: BUILDING A FOUNDATION FOR BETTER UNDERSTANDING (2011), available at https://www.ncbi.nlm.nih.gov/books/NBK64806, pp. 62-66, 75.
- The Joint Commission, ADVANCING EFFECTIVE COMMUNICATION, CULTURAL COMPETENCE, AND PATIENT- AND FAMILY-CENTERED CARE FOR THE LESBIAN, GAY, BISEXUAL, AND TRANSGENDER (LGBT) COMMUNITY: A FIELD GUIDE (2011), available at https://nursing.uiowa.edu/sites/default/files/documents/diversity/LGBTFieldGuide.pdf, pp. 1, 2, 22-23.

Among the many recent incidents reported by our medical, behavioral health and legal services providers are the following:

- Whitman-Walker was recently contacted by a transgender woman suffering from painful tonsillitis. She wanted treatment but knew of no hospital or facility other than Whitman-Walker where she could go without being disrespected and poorly treated.

- Transgender couples seeking information about their options for pregnancy have been turned away from area fertility clinics and told that their services were not available for people like them.

- Transgender patients of Whitman-Walker have been refused when they attempted to fill prescriptions for hormones prescribed to assist in their gender transition at non-WWH pharmacies. Gay male patients seeking to fill prescriptions for Truvada for Pre-Exposure Prophylaxis (PrEP) to prevent HIV transmission during sex have also been refused by some area pharmacies.

- Local hospitals and surgeons have refused to perform gender-transition-related surgeries on Whitman-Walker transgender patients, even when they routinely perform the procedures in question on non-transgender patients, including in situations where the patient's insurance would cover the procedure or when the patient was able to pay for the procedure. This has happened with orchiectomies, breast augmentations, and breast reductions – procedures which are routinely performed for treatment of cancer or for other reasons not related to gender identity.

- Our providers have seen situations in which teenagers who are transgender or gender-nonconforming have presented at local hospitals with symptoms for which hospitalization was indicated, but their hospitalization was delayed and even denied because hospital personnel took them less seriously than they took other young people with similar presentations who were not transgender.

- Our behavioral-health providers who regularly interview our transgender patients to assess their stage of gender transition and readiness for gender-affirming surgical procedures, or who provide psychotherapy for these patients, report that the large majority of the patients they meet with – as many as four out of every five – report incidents of mistreatment or discrimination by health care providers and staff at hospitals, other clinics, doctor's offices, and other facilities.

- Whitman-Walker behavioral health staff often receive calls or other communications from LGBT persons expressing desperation about finding a therapist or substance use professional who will not discriminate against them because of their sexual orientation or gender identity.

Our patients also report discriminatory incidents in addition to sexual orientation and gender identity discrimination. Whitman-Walker has a number of patients whose primary language is Spanish and who lack English proficiency. Our providers have patients who, in hospital and medical clinic settings, were refused Spanish language interpreters, even when such interpreters were available in the facility, because the provider or other staff thought that the patient ought to know English, or because of bias against immigrants. Patients in these situations have had difficulty understanding their diagnosis and /or treatment plan, greatly increasing risk of a negative result and harm. Senate Bill 738's prohibition of discrimination based on national origin, race and color would help put a stop to such incidents.

Discrimination by health insurers and health plans. Whitman-Walker medical and behavioral health providers, care navigators and attorneys assist hundreds of transgender patients every year to navigate private health plans, Medicaid, and Medicare to obtain the gender-affirming services that they need – including a wide range of surgical procedures and hormone therapy. Many private and public plans continue to resist coverage of medically necessary procedures – if not through blanket exclusions of "sex change" or "sex transition" procedures, then through denials of coverage of specific procedures. For instance, many plans that do not contain blanket exclusions of all "sex reassignment" procedures still exclude many essential types of surgeries related to gender transition, including facial or chest surgery, and plans that are more inclusive commonly exclude revision work (labiaplasty and glans reconstruction). In addition, many insurers deny coverage of other specific treatments needed to complete an individual's transition on grounds that the procedure is "cosmetic" – either by relying on general plan language excluding cosmetic procedures or concluding that a procedure is not medically necessary. In many cases, plans specifically exclude procedures that are routinely considered cosmetic for most cisgender persons, but may be part of a medically recognized course of treatment for a transgender person. Examples of such procedures, which are categorically excluded as "cosmetic" in many plans and by many utilization reviewers, include:

- Surgeries of the head and face, such as hair transplant, scalp advancement, brow reduction, lip reduction or augmentation, rhinoplasty, cheek and chin contouring, jawline modification, blepharoplasty, and other facial reconstruction procedures for transgender people.

- Laser hair removal and electrolysis, on the face and elsewhere on the body.

- Surgeries involving the neck, such as cartilage reduction (modification of the Adam's Apple) and vocal cord surgery.

- Breast augmentation, mastectomy, and chest reconstruction (including nipple reconstruction).

- Other body contouring procedures, such as waist reduction, hip/buttocks implants, fat transfer, and pectoral implants.

- Multiple-staged phalloplasties and other surgical procedures.

- Lessons/training to modify the vocal range.

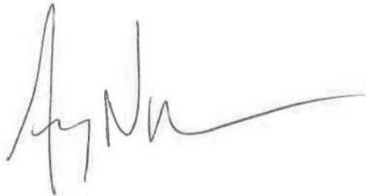
- Reproductive procedures, such as cryopreservation.

Although Whitman-Walker lawyers and providers are sometimes able to obtain reversals of coverage denials through negotiation or appeals to the Maryland Insurance Administration, the process is lengthy and uncertain. A clear statutory nondiscrimination mandate would be very helpful for our transgender patients and legal clients and would provide needed guidance to Maryland health plans and insurers.

In conclusion, Senate Bill 738 is a major step forward in ensuring that all Marylanders have access to nondiscriminatory health care and health insurance coverage. We urge this Committee, and the Senate, to promptly approve it.

Thank you for this opportunity to offer our views. We would be happy to provide additional information or to assist the Committee in any other way.

Respectfully submitted,



Amy Nelson, JD
Director of Legal Services
202-939-7625
anelson@whitman-walker.org

Daniel Bruner, JD, MPP
Senior Director of Policy
202-939-7628
dbruner@whitman-walker.org

Cass_Caveney_TransRecognitionMaryland_FAV_SB738

Uploaded by: Caveney, Cass

Position: FAV

Trans Recognition Maryland

Cass Caveney
Silver Spring MD

Marie Mapes
Silver Spring, MD

February 26, 2020

The Honorable Delores G. Kelley
Senate Finance Committee
Miller Senate Office Building, 3 East
Annapolis, Maryland 21401

SB 738: Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services

SUPPORT

To the Chair, Vice Chair, and esteemed members of the Senate Finance Committee:

On behalf of Trans Recognition Maryland, a network of nonbinary and transgender individuals and allies across Maryland, I strongly support SB 738: Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services. This bill will reinforce Affordable Care Act protections and fill in gaps in existing protections by fully prohibiting discrimination on the basis of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, and disability in all medical and healthcare settings, including all hospitals, and by all healthcare providers and insurers.

Discrimination against transgender patients remains a serious problem. According to the most recent comprehensive survey of Maryland transgender residents[1], "25% of respondents

[1] 2015 U.S. Transgender Survey – Maryland State Report https://transequality.org/sites/default/files/USTS%20MD%20State%20Report.pdf

experienced a problem in the past year with their insurance related to being transgender, such as being denied coverage for care related to gender transition or being denied coverage for routine care because they were transgender." Furthermore, "29% of those who saw a health care provider in the past year reported having at least one negative experience related to being transgender. This included being refused treatment, verbally harassed, or physically or sexually assaulted, or having to teach the provider about transgender people in order to get appropriate care." And finally, "23% of respondents did not see a doctor when they needed to because of fear of being mistreated as a transgender person."

Below are a couple of recent examples of healthcare discrimination encountered by members of our community:

> A Montgomery County trans man, who has asked to be called J. in this testimony, has found himself in an expensive and contradictory medical limbo because of barriers within his insurance plan. J's insurance covers an annual (ironically-named and tone-deaf) "Well Woman" exam. However, J. is often denied basic uterine follow-up medical care. For example, after his most recent Pap tests were submitted to Labcorp, they were returned with the diagnostic code "INVALID GENDER". Even after his doctor interceded to explain he was transgender, it was only possible to have the Pap tests processed after they changed the 'M' to 'F' in the paperwork. Furthermore, when the Pap tests results indicated abnormalities and his doctor prescribed a colposcopy to further treat his cervix, **his insurance denied coverage because his gender was recorded as male**. These are examples of the barriers to medical care routinely encountered by J. and many other transgender male Maryland residents.

> A nonbinary resident of Montgomery County encountered the following barriers to getting hormones for gender affirming healthcare. Their doctor prescribed delestrogen (estradiol valerate), and their insurance covers this hormone. But because their insurance only covers this benefit as a medical and not pharmacy benefit, they would be required to regularly take 3 hours out of their day for the combined tasks of traveling to their doctor's office, sitting in the waiting room for someone to get their prescription, moving them to an exam room, injecting the hormones, and waiting under observation until they are allowed to leave. If they had access to this hormone as a pharmacy

benefit, they could get the prescribed hormones and inject themselves at home, which is a routine medical training they are willing to do.

However, even after overcoming these barriers to accessing affirming healthcare and finding a semi-workable solution, the prescription company (CVS Caremark) has now **denied that they could receive the doctor-prescribed hormone because they were assigned male at birth.** Their primary health insurance company (Carefirst Blue Cross) is now in dispute with their prescription company, claiming that the prescription company does not have the authority to deny the coverage. Meanwhile, **this Montgomery County resident continues to have to endure this delay in accessing healthcare that should be available to them.**

Because these are not isolated incidents, but rather just two examples of the kind of challenges the transgender community faces regularly when accessing care, I respectfully urge this committee to issue a **favorable report for Senate Bill 738.**

Thank you for your consideration.

Cass Caveney and Marie Mapes
Trans Recognition Maryland

HFAM_FAV_SB738
Uploaded by: DeMattos, Joseph
Position: FAV

TESTIMONY BEFORE THE
SENATE FINANCE COMMITTEE
February 26, 2020
Senate Bill 738: Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services
Written Testimony Only

POSITION: SUPPORT

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support for Senate Bill 738. HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction in the state. HFAM members provide quality and cost-efficient care to the majority of the 5.8 million total Medicaid patient days in Maryland skilled nursing and rehabilitation centers annually.

HFAM supports this legislation and its intent to prohibit health care providers and health benefit plans from withholding or denying medical services or otherwise discriminating against any individual with respect to their medical care because of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability.

Health care providers and health benefit plans have an obligation to provide and manage care equally and without discrimination to all individuals regardless of the characteristics that this legislation protects. Individuals in need of healthcare deserve equal access to that care as long as the care sought can be clinically best provided. No individual should be turned away or denied care based on race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability.

For these reasons, we request a favorable report from the Committee on Senate Bill 738.

Submitted by:

Joseph DeMattos, Jr.
President and CEO
(410) 290-5132

Spencer_Dove_MCCRLos_FAV_SB 738
Uploaded by: Dove, Spencer
Position: FAV

State of Maryland
Commission on Civil Rights

"Our vision is to have a State that is free from any trace of unlawful discrimination."

Governor
Larry Hogan
Lt. Governor
Boyd K. Rutherford
Commission Chairperson
Gary C. Norman, Esq.
Commission Vice Chairperson
Roberto N. Allen, Esq.
Commissioners
Allison U. Dichoso, Esq.
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Rabbi Binyamin Marwick
Gina McKnight-Smith, PharmD, MBA
Shawn M. Wright, Esq.

Officers
Alvin O. Gillard, Executive Director
Cleveland L. Horton II, Deputy Director
Nicolette Young, Assistant Director
Glendora C. Hughes, General Counsel

February 26, 2020

Senate Bill 738 – Health Care Providers and Health Benefit Plans –
Discrimination in Provision of Services
Position: Support with Amendments

Dear Chairperson Kelley, Vice Chairperson Feldman, and Members of the Senate Finance Committee:

The Maryland Commission on Civil Rights ("MCCR"; "The Commission") is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and state contracts based upon race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, and physical and mental disability.

Senate Bill 738 prohibits a hospital or relation institution from refusing, withholding from, or denying an individual access to medical services, or otherwise discriminating against any individual with respect to their medical care because of the patient's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability. It also prohibits a health care provider licensed or regulated by the Maryland Department of Health ("MDH") or a provider of health benefit plans under the authority of the Maryland Insurance Administration ("MIA") from discriminating against an individual because of the aforementioned protected classes.

Generally, MCCR supports expanding health care anti-discrimination protections to include in the Health General Article all of the same protected classes found in Title 20 of the State Government Article ("SGA Title 20"). However, MCCR does not have the resources or expertise to be able to investigate claims of unlawful discrimination by a health care provider or an insurer. While MCCR does have jurisdiction to take complaints of alleged unlawful discrimination regarding access to a health care institutions or related facilities, MCCR has neither jurisdiction nor expertise with respect to the necessity or quality of medical services and care. It is MCCR's position that the agencies responsible for licensing and regulating these entities currently have the necessary resources and expertise to investigate complaints filed with them. Accordingly, MCCR respectfully requests that the bill incorporate amendments to mitigate any fiscal and operational impact on the Commission.

William Donald Schaefer Tower, 6 Saint Paul Street, Suite 900, Baltimore, Maryland 21202-1631
Phone: 410-767-8600 · Toll Free: 1-800-637-6247 · Maryland Relay: 711 · Fax: 410-333-1841
Website: mccr.maryland.gov · E-Mail: mccr@maryland.gov

Current Maryland law found in §2-202 of the Insurance Article creates a structure by which the MIA and MCCR have concurrent jurisdiction over complaints of alleged discrimination in underwriting and rate-setting practices. In order to access relief, Complainants file with the MIA. MIA, as the primary regulator of the insurance provider, conducts an investigation and issues a finding in the matter. If the Complainant is alleging discrimination, the MIA shares the results of their investigation with MCCR. The Commission then reviews the investigation, and follows-up as needed to issue a finding. This concurrent jurisdiction guarantees that each respective agency is equipped with the information needed to enforce their respective statutes, while affording aggrieved parties their rights under Maryland law.

MCCR respectfully requests that the Maryland General Assembly adopt amendments to SB738 to create concurrent jurisdiction between MCCR with both the MDH and the MIA. These amendments would ensure the appropriate regulatory or oversight entity within each agency would use their expertise to receive and investigate complaints, while sharing with MCCR the results of their investigations that contain allegations of unlawful discrimination under SB738's provisions.

Without these amendments, MCCR's statutory jurisdiction is expanded to include investigating discrimination complaints about health care delivery and access to health insurance, requiring the agency to receive additional resources from the State. These resources will be needed to ensure that current case processing times are not adversely impacted. Commission staff are already experiencing high case inventories due to an increase in complaint intakes over the past few years. Any increase in case inventories under SB738 will result in investigations taking longer to complete. This is of particular concern to MCCR because it has the potential to hinder the agency's ability to satisfy contractual obligations with the U.S. Equal Employment Opportunity Commission ("EEOC") and the U.S. Department of Housing & Urban Development ("HUD"). MCCR receives approximately 25% of its annual budget from federal funds. Any loss of federal funds would need to be supplemented by the State, or the agency would need to begin cutting vital investigative staff in order to stay within its annual allowance. Indeed, any increase in case processing times or decrease in investigative staff is to the detriment of Complainants and Respondents currently accessing MCCR services seeking resolutions to allegations of unlawful employment, housing, public accommodations, or state contract discrimination.

For these reasons, MCCR urges the Committee to vote favorably with amendments on Senate Bill 738. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to promote and improve civil rights in Maryland.

Suzi_Gerb_FAV_SB 738
Uploaded by: Gerb, Suzi
Position: FAV

SUPPORT SB 738
February 25. 2020

Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services
Support SB 738

Early in 2019, I was experiencing urine flow problems. Some people I know highly recommended Dr. Rodriguez who listed this problem as a specialty of his on his web page. He also had the advantage that he was a member of a prominent practice located not far from my home.

After seeing me and finding out I am transgender, Dr. Rodriguez refused to treat me further. He referred me to another doctor a substantial distance away who did not list urine flow issues on their website. Despite the lack of expertise and the increased difficulty in getting there, I followed up on the referral. When I called and tried to get an appointment with that doctor, the doctor's office told me they didn't treat that sort of problem. When I told them this, Dr. Rodriguez's office gave me another referral to a doctor even further away who didn't list urine flow among their specialties. At that point I had lost all confidence in Dr. Rodriguez being able to refer me for alternate care. I had some difficulties finding another urologist. I ended up seeing someone some distance away who retired abruptly shortly before a follow-up appointment. The alternates they gave were even further away.

Having been denied stable, expert care in a well-known practice close to my place of residence as a result of my history as a transgender person, I grew frustrated and have been living with this condition without medical care.

I would ask the committee to vote in support of SB 738 which is important legislation.

Sincerely,

Suzi Gerb

SCMD_FAV_SB0738
Uploaded by: Goldstein, Mathew
Position: FAV

Secular Coalition for Maryland Secular Coalition for America http://secular.org

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February 26, 2020

The Honorable Delores G. Kelley

Finance Committee

3 East, Miller Senate Office Building
Annapolis, MD 21401

Re: SUPPORT SB0738 (HB1120) Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services

Chairwoman and Members of the Committee:

The Secular Coalition for Maryland welcomes this bill requiring all health care providers uphold reasonable, common sense non-discrimination standards. Invidious discrimination hurts us as a society, it divides people and impedes people from realizing their potential. The health care sector in particular, because of it importance, has a responsibility to not engage in counterproductive discrimination. All people who need medical care should be able to obtain needed health care without worrying about being mistreated or denied service.

Discrimination in health care settings can endanger people's lives through delays or denials of medically necessary care. Alternatives may not be easily accessible for patients that seek medical care and are turned away by providers. This concern is exacerbated by a shortage of medical providers in key areas of treatment and some geographic areas (such as rural communities).

The Affordable Care Act Section 1557 prohibits health care providers (and insurance companies) from engaging in discrimination on the basis of race, color, national origin, sex, age, or disability. Section 1557 applies to any health program or activity any part of which received

funding from HHS or that HHS itself administers. Unlike the ACA, this bill protects everyone everywhere in Maryland.

Paisley_Grahl_FAV_SB 738
Uploaded by: Grahl, Paisley
Position: FAV

Support SB 738
February 25, 2020

Support SB 738 Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services Paisley Grahl

Thank you for your time today, I am writing in support of SB 738 Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services. I have been on life saving hormone replacement therapy(HRT) as a transgender person since 2013. I was assigned female at birth and have been prescribed the hormone, testosterone, to suppress the excess estrogen produced by my ovaries. This treatment has been essential to maintain my physical and mental health by regulating my endocrine system. Unfortunately, myself and many others have been refused treatment or denied coverage for being transgender and our health suffers because of this. According to the 2015 US Transgender Survey, 25% of Maryland respondents reported problems with their insurance related to being transgender like being denied for routine care or gender transiton related care. Due to my transgender status I have been denied emergency care, antibiotic treatments, and most frequently my hormone therapy. Over the years I have learned how to advocate for my medical needs, but my access to healthcare and medication is significantly delayed during this process of appealing denials related to my transgender status.

I was originally prescribed injectable testosterone but this method caused too much fluctuation between the doses. After trying alternative doses and formulations, my doctor and I concluded that a daily topical testosterone is required to keep my hormone levels stable in a safe and healthy range. A Prior Authorization is required for my insurance to cover testosterone. When prescribed an injectable testosterone, it took up to a week for my insurance and doctor to agree on the medical necessity and approve my coverage. Since switching to a topical testosterone, my prescription gets denied automatically despite my medical and pharmacy records showing I've needed and used this medication for years. In theory, this should be easily resolved by my doctor and insurance communicating about my medical needs as a trans person assigned female at birth that uses HRT. I need testosterone in my body to maintain my health and I need to get it into my body via topical application for it to work efficiently. However, appealing the denial for topical testosterone frequently takes at least 4 or 5 weeks, leaving me without enough medication to keep my hormone levels in a healthy range. Typically, my doctor appeals the initial denial and I will get approved for injectable testosterone instead of the topical version I require. My doctor appeals this and despite just recently being approved for injectable testosterone, I get denied for topical testosterone on the basis of it not being medically necessary for me as someone assigned female at birth. The denial and appeal process escalates until my doctor and the CVS Medical Director collaborate to get my medication approved. This entire process is repeated every time my prior authorization needs to be renewed. It is exausting and unhealthy for transgender people to continueally face these barriers to access healthcare so I urge you to vote in support of SB 738.

FreeState Justice_FAV_SB738

Uploaded by: Hoffman, C.P.

Position: FAV

2526 SAINT PAUL STREET
BALTIMORE, MD 21218
TEL (410) 625-LGBT (5428)
FAX (410) 625-7423
www.freestate-justice.org

C.P. Hoffman
Legal Director
cphoffman@freestate-justice.org

February 26, 2020

The Honorable Delores G. Kelley
Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, MD 21401

Testimony of FreeState Justice

IN SUPPORT OF

SB738: Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services

To the Honorable Chair Dolores G. Kelley, Vice Chair Brian J. Feldman, and esteemed members of the Finance Committee:

FreeState Justice is Maryland's lesbian, gay, bisexual, transgender, and queer (LGBTQ) civil rights advocacy organization. Each year, we provide free legal services to dozens, if not hundreds, of LGBTQ Marylanders who could not otherwise be able to afford an attorney. Many of our cases involve discrimination in healthcare institutions, and 36.1% of LGBTQ Marylanders identified healthcare as a critical issue in our 2016 Needs Assessment.[1]

Unfortunately, Maryland law does not prohibit discrimination against LGBTQ Marylanders on the basis of their sexual orientation or gender identity. Although federal law, notably Section 1557 of the Affordable Care Act[2] and its implementing

[1] M. Saida Agostini, PUSHING BACK: A BLUE PRINT FOR CHANGE: LESSONS LEARNED FROM THE 2016 NEEDS ASSESSMENT OF LGBTQ MARYLANDERS at 21 (FreeState Justice 2018), *available at* https://freestate-justice.org/wp-content/uploads/2019/03/Pushing-Back-A-Blueprint-for-Change.pdf.

[2] 42 U.S.C. § 18116 (prohibiting discrimination on the basis of race, color, national origin, sex, age, or disability, by any health program or activity that receives federal funding).

regulations,[3] have offered some protections to LGBTQ Marylanders, the Trump Administration's Department of Health and Human Services has proposed new regulations gutting existing protections for sexual orientation and (especially) gender identity.[4] Meanwhile, pending cases at the Supreme Court of the United States could further undermine the application of all federal nondiscrimination laws to LGBTQ individuals.[5] Thus without state level protection like that in SB738, LGBTQ Marylanders may soon find themselves without any remedy when discriminated against in access to healthcare.

I. Discrimination Against LGBTQ Marylanders in Access to Healthcare

Discrimination against LGBTQ people can take many forms in a healthcare setting: doctors may refuse to provide care for LGBTQ patients because of their sexual orientation or gender identity, may refuse to recognize the family of LGBTQ couples, and may use harsh or abusive language when treating them.

This discrimination disproportionately affects transgender patients. In fact, a 2017 study by the Center for American Progress demonstrates that 29 % of transgender patients were excluded from healthcare service by a provider because of their actual or perceived gender identity.[6] A 2015 US Transgender Survey report revealed that one in four transgender people avoided seeking care for fear of discrimination, while one-third who did see a health care provider in the year prior reported having at least one negative experience relating to their transgender status.[7] Despite Maryland's strong record on LGBTQ rights, the Maryland residents answered largely in line with their peers in other states, with 23% reporting not seeking care

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[3] 81 Fed. Reg. 31,376 (May 18, 2016), *codified at* 45 C.F.R. Part 92.

[4] *See* 84 Fed. Reg. 24,846 (June 14, 2019).

[5] *Altitude Express Inc. v. Zarda*, No. 17-1623; *Bostock v. Clayton County, Ga.*, No. 17-1618; *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Comm'n*, No. 18-107.

[6] Shabab Ahmed Mirza & Cailin Rooney, *Discrimination Prevents LGBTQ People from Accessing Health Care*, Center for American Progress, Jan. 18, 2018, *available at* https://www.americanprogress.org/issues/lgbtq-rights/news/2018/01/18/445130/discrimination-prevents-lgbtq-people-accessing-health-care/.

[7] James, S. E., *et al.*, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY at 93, 96-99 (Nat'l Ctr. for Transgender Equality 2016), *available at* http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF.

FREESTATE JUSTICE
2526 SAINT PAUL ST, BALTIMORE, MD 21218
TEL (410) 625-5428 FAX (410) 625-7423 www.freestate-justice.org

for fear of being mistreated and 29% reporting having at least one negative interaction with a health care provider in the prior year.[8]

This persistent discrimination causes many LGBTQ Marylanders, especially those outside of the Baltimore and Washington, D.C., metro areas, to drive between 45 to three hours to access inclusive healthcare services.[9] Even if they are able to find an affirming provider, however, services can still be (and sometimes are) denied by provider or insurance company policies that discriminate against LGBTQ patients.

In one recent case, for instance, a hospital in Baltimore cancelled a transgender man's hysterectomy the night before surgery, despite allowing cisgender patients to receive hysterectomies in the same facilities. It is also all-too-common for insurance companies to deny coverage for transition-related care, in violation of federal law and often their own policies.

Discrimination like this negatively impacts the wellbeing of LGBTQ Marylanders by decreasing their access to healthcare providers and to medical care, especially for those living in rural areas or seeking specialized treatments.

II. Maryland Does Not Have a Comprehensive Healthcare Nondiscrimination Law

Unfortunately, Maryland law is ill-suited to protect LGBTQ Marylanders – or any Marylanders, for that matter – in the face of healthcare discrimination. While Maryland has adopted a suite of laws prohibiting discrimination on the basis of race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, or disability: in access to public accommodations;[10] by individuals licensed by the Department of Labor, Licensing, and Regulation;[11] in leasing of commercial property;[12] in employment;[13] or in housing,[14] there is no similarly broad law prohibiting discrimination in the provision of healthcare services or of health

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[8] James S. E., *et al.,* THE 2015 U.S. TRANSGENDER SURVEY, *Maryland State Report* at 3 (Nat'l Ctr. for Transgender Equality 2017) *available at* https://transequality.org/sites/default/files/USTS%20MD%20State%20Report.pdf.

[9] M. Saida Agostini, PUSHING BACK: A BLUE PRINT FOR CHANGE: LESSONS LEARNED FROM THE 2016 NEEDS ASSESSMENT OF LGBTQ MARYLANDERS at 22 (FreeState Justice 2018), *available at* https://freestate-justice.org/wp-content/uploads/2019/03/Pushing-Back-A-Blueprint-for-Change.pdf

[10] MD. CODE STATE GOV'T § 20-301 *et seq.*

[11] MD. CODE STATE GOV'T § 20-401 *et seq.*

[12] MD. CODE STATE GOV'T § 20-501 *et seq.*

[13] MD. CODE STATE GOV'T § 20-601 *et seq.*

[14] MD. CODE STATE GOV'T § 20-701 *et seq.*

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2526 SAINT PAUL ST, BALTIMORE, MD 21218
TEL (410) 625-5428 FAX (410) 625-7423 www.freestate-justice.org

insurance. Hospitals and doctors' offices are also excluded from the state's list of public accommodations.[15]

In place of a comprehensive law prohibiting discrimination in healthcare and health insurance, Maryland has merely the scant protections offered by Health-General § 19-355. Under 19-355, hospitals and "related institutions" (a term defined to mean skilled nursing facilities and similar institutions offering nursing or subsistence care for two or more unrelated individuals)[16] "may not discriminate in providing personal care for an individual because of the race, color, or national origin of the individual."[17] It does not prohibit discrimination by healthcare providers outside of a hospital or nursing facility context, nor by health insurers in any context. Moreover, 19-355 leaves open discrimination on the basis of many classes prohibited by Maryland's other nondiscrimination laws, including sex, age, creed, marital status, disability, sexual orientation, and gender identity.

III. Federal Healthcare Nondiscrimination Protections Are Under Attack

In the absence of a state-level remedy, LGBTQ Marylanders and others have in recent years relied on the expansive protections offered by Section 1557 of the Affordable Care Act and its implementing regulations. Now, however, the continued vitality of those protections are in doubt, as the federal Department of Health and Human Services has proposed rescinding many Obama-era protections, while at the same time the United States Supreme Court is considering whether discrimination "on the basis of sex" includes sexual orientation and gender identity, as many lower courts had previously held.[18]

Section 1557 prohibits discrimination by any health program or activity that receives federal funding on the basis of race, color, national origin, sex, age, or disability.[19] Consistent with appellate court decisions from across the country, the Department of Health and Human Services under the Obama administration interpreted "sex" to include sexual orientation and gender identity, and in 2016

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[15] MD. CODE STATE GOV'T § 20-301.

[16] MD. CODE HEALTH-GEN. § 19-301.

[17] MD. CODE HEALTH-GEN. § 19-355.

[18] *See, e.g., Whitaker v. Kenosha Unified School District,* 858 F.3d 1034 (7th Cir. 2017); *Hively v. Ivy Tech Community College of Indiana*, 853 F.3d 339 (7th Cir. 2017) (en banc); *Dodds v. U.S. Dept. of Education*, 845 F.3d 217 (6th Cir. 2016); *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011); *Rosa v. Park West Bank & Trust Co.*, 214 F.3d 213 (1st Cir. 2000); *Schwenk v. Hartford*, 204 F.3d 1187 (9th Cir. Feb. 29, 2000). *See also Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) (holding that sex stereotyping constituted discrimination on the basis of sex).

[19] 42 U.S.C. § 18116.

issued regulations expressly prohibiting discrimination on the basis of gender identity and defining the term "sex stereotyping" in a way to cover most if not all discrimination on the basis of sexual orientation.[20]

The 2016 regulations also included several provisions designed to guarantee that transgender individuals have access to healthcare, including provisions prohibiting covered entities from excluding or limiting coverage for health services relating to gender transition,[21] denying or limiting claim coverage or health services based on a transgender individual's sex assigned at birth,[22] or otherwise denying or limiting coverage or imposing additional cost sharing or other restrictions on gender transition related services.[23]

Since these regulations went into effect in 2016, they have had a dramatic effect in expanding the ability of transgender individuals to access healthcare in Maryland. As a result of the Section 1557 regulations, for instance, both the Maryland Insurance Administration and Department of Health and Mental Hygiene have issued guidance to insurance providers and Medicaid Managed Care Organizations requiring them to include coverage for transition-related care.[24] The Section 1557 regulations have also been cited in innumerable private actions, especially appeals of insurance denials.

Unfortunately, on June 14, 2019, the Trump administration Department of Health and Human Services issued new proposed regulations that would gut the protections enshrined in Section 1557.[25] These regulations entirely eliminate the general prohibition on discriminating against individuals on the basis of gender identity, as well as the specific protections for transgender individuals; adopt a blanket religious freedom exemption for healthcare providers that would be a license to discriminate; allow insurers to vary benefits to discriminate against

[20] 45 C.F.R. § 92.4.

[21] 45 C.F.R. § 92.207(b)(4).

[22] 45 C.F.R. § 92.206, 92.207(b)(3). For example, a health insurance plan cannot deny coverage for a transgender woman's mammogram on the grounds that she was assigned male at birth, or, alternatively, could not deny coverage for treatment of prostate cancer because her health insurance policy designated her as female.

[23] 45 C.F.R. § 92.207(b)(5).

[24] *See* Maryland Department of Health and Mental Hygiene, Maryland Medical Assistance Program Managed Care Organizations Transmittal No. 10 (March 10, 2016), *available at* https://mmcp.health.maryland.gov/MCOupdates/Documents/pt_37_16.pdf; Maryland Insurance Administration, Bulletin 15-33 (Dec. 10, 2015), *available at* https://insurance.maryland.gov/Insurer/Documents/bulletins/15-33_2017-ACA-Rate-Form-Filing-Deadlines-and-Substitution-Rules.pdf.

[25] 84 Fed. Reg. 24,846 (June 14, 2019).

individuals with HIV; weaken or eliminate language access requirements for non-English speakers; and limit Section 1557's protections only to the specific programs receiving federal funds, rather than all programs of organizations receiving funds.[26]

Public comment for HHS's proposed regulations closed on August 13, 2019, and the Department is currently reviewing and preparing responses to the voluminous public comments submitted. The final regulations, which are expected to be substantially similar to those proposed in June, will likely go into effect by the end of 2020.

While individuals will still be able to base claims on Section 1557's statutory provisions prohibiting discrimination, appellate court precedent interpreting "discrimination on the basis of sex" as including sexual orientation and gender identity may soon be reversed or called into question by the United State Supreme Court. On October 8, 2019, the Court heard a trio of cases centered on whether Title VII of the Civil Rights Act prohibits discrimination on the basis of sexual orientation and gender identity.[27] If, as is widely expected, the Court rules it does not, appellate courts are highly likely to hold other federal nondiscrimination laws, including Section 1557, do not as well. Decisions in the three cases are expected by the end of June.

LGBTQ Marylanders are thus left in an unenviable position: while we are currently protected by Section 1557 and its regulations, it is uncertain if those rights will still exist at the end of the year.

By creating Maryland's first comprehensive healthcare nondiscrimination law, SB738 would eliminate that uncertainty and make clear to LGBTQ Marylanders that we will still have access to healthcare regardless of what happens in Washington.

For this reason, FreeState Justice urges a favorable report.

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[26] *Id. See also* MaryBeth Musumeci et al, "HHS's Proposed Changes to Non-Discrimination Regulations Under ACA Section 1557," *Disparities Policy* (July 1, 2019).

[27] *Altitude Express Inc. v. Zarda*, No. 17-1623; *Bostock v. Clayton County, Ga.*, No. 17-1618; *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Comm'n*, No. 18-107.

Kate_MacShane_MDCenterGenderIntimacy_FAV_SB738
Uploaded by: Macshane, Kate
Position: FAV

Bill Number: SB 738
Title: Health Care Provider and Benefit Plans Non-Discrimination Protections
Lead Sponsor: Senator Feldman
Committee: Finance

Written Testimony By: Kate MacShane, LCSW-C
Psychotherapist and Clinical Director
Maryland Center for Gender & Intimacy
Frederick, Maryland

Position: Support

Esteemed Members of the Senate Finance Committee,

My name is Kate MacShane, and I am a licensed clinical social worker based in Frederick, Maryland. I am the founder and clinical director of the Maryland Center for Gender and Intimacy, a practice that specializes in the provision of affirming mental health services for people who identify as LGBTQ+. I am a member of the World Professional Association of Transgender Health; the American Association of Sexuality Educators, Counselors, and Therapists; and the National Association of Social Workers.

I urge you to vote in support of SB738, which would prohibit discrimination by hospitals, healthcare providers, and healthcare insurers in Maryland on the basis of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, and disability. The passing of this legislation would have immediate profound, positive impact on the lives of the clients I serve who are gay, lesbian, bisexual, queer, transgender, nonbinary, and gender non-conforming.

Many of my clients seek therapy services with me in order to recover from the impacts of discrimination and prejudice based on their sexual orientation and/or gender identity. Too often, the discrimination they face comes from healthcare providers who, despite their ethical obligations not to do harm, leave my clients feeling rejected, judged, abandoned, and even traumatized by discriminatory practices. They need, and deserve, legislative protection.

Here is a recent example of why this legislation is so necessary. A transgender adolescent client of mine was receiving care from a psychiatric nurse practitioner upon whom he depended for medication to stabilize his mood and manage his symptoms of severe depression and anxiety. This young man had had his name and gender marker legally changed to reflect his identity, and he had recently had chest masculinization surgery and begun hormone therapy with full parental support. He had been using his affirmed name in all settings for several years. Despite all of this, this provider repeatedly called this client by the name given to him at birth and used she/her pronouns to refer to him. Upon being respectfully corrected numerous times by both the client and his mother, the nurse practitioner told him she refused to use his name because he “didn’t look like a boy” and admonished his parent for allowing her “daughter to treat adults that way.” After abruptly ended treatment in the middle of the appointment, this provider asked the parent to tell me not to refer any future transgender clients to her. This incident left my client

traumatized, embarrassed, and deeply depressed. Additionally, he then went without medication for several months, as he had been left without a prescription and his family was understandably reluctant to try to start over with a new provider. The care my young client deserved was denied to him on the basis of his gender identity, and his respectful self-advocacy was met with utter rejection. This sort of treatment should absolutely be prohibited by Maryland law.

This is just one example of hundreds I could share with you to illustrate the deep need for this legislation. LGBTQ+ people need explicit protection from discrimination by hospitals, health care providers, and insurance companies. We cannot leave it up to the federal government to protect these vulnerable populations; it is time to take immediate action at the state level.

Thank you in advance for your support of this essential legislation.

Sincerely,

Kate MacShane, LCSW-C

MOCO_Women_Dem_Club_FAV_SB 738
Uploaded by: Milano, Leslie
Position: FAV

MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827 www.womensdemocraticclub.org

Senate Bill 0738– Health Care Providers and Health Benefits Plan – Discrimination in Provision of Services
Senate Finance Committee – February 26,2020
SUPPORT

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2020 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with more than 600 politically active women and men, including many elected officials.

WDC urges the passage of SB0738. This bill would codify section 1557, the anti-discriminatory section of the Affordable Care Act (ACA) into state law and add additional protected classes of individuals. This would ensure that no Marylander would be denied medical services or otherwise discriminated against by a hospital or related institution or insurance plan because of their race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information or disability.

Ensuring that all Marylanders have access to an affordable, functioning health care system regardless of the status of the ACA at the Federal level is critical to the health care of over 400,000 Marylanders who are currently covered under the ACA, as well as to other residents. With uncertain federal support of the ACA, it is imperative that Maryland enacts legislation that ensures that its citizens are not discriminated against in the provision of healthcare.

The provision of affordable health care to all of Maryland citizens is essential to public health, and to the state's economy. No one should be denied necessary medical treatment or insurance because of their race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information or disability.

WDC urges Maryland to join the five other states who have enacted legislation to ensure that the ACA protections become part of state law.

We ask for your support for SB0738 and strongly urge a favorable Committee report.

Respectfully,

Diana Conway
President

Keeping Members Better Informed, Better Connected, and More Politically Effective

NARAL_FAV_SB738

Uploaded by: NARAL, NARAL

Position: FAV

SB0738 - Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services
Presented to the Hon. Delores Kelley and Members of the Senate Finance Committee
February 26, 2020 1:00 p.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland **urges the Senate Finance Committee a favorable report on SB0738 Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services**, sponsored by Senator Brian Feldman.

Our organization is an advocate for reproductive health, rights, and justice. We fight for equal access to high-quality, informed, and affordable healthcare, including sexual and reproductive healthcare, for all. In doing so, we support SB0738 as it seeks to strengthen Maryland's antidiscrimination protections in healthcare.

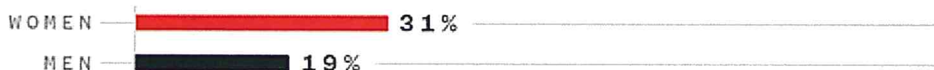
Currently, Maryland forbids hospitals from discriminating against people on account of race, color, or national origin. However, discrimination in care goes beyond these categories, and our laws should recognize this in order to achieve the best health outcomes for all Marylanders. Discrimination in healthcare is not only a problem of justice, but one of public health. Individuals who experience discrimination while seeking medical care may stop seeking healthcare altogether. Furthermore, discrimination itself is a health issue. "Minority stress," or the experience of persistent stress caused by repeated institutional and interpersonal discrimination, can lead to mental and physical health problems among members of stigmatized groups.[i] This phenomenon has been tied to negative physical and mental health outcomes among racial minorities, including heart disease and high blood pressure.[ii] Counterproductively, healthcare is often an additional site of discrimination.

Minority groups have complex relationships with the healthcare system. LGBTQ people are particularly vulnerable to health disparities and have unique health needs, such as use of assisted reproductive technologies, HIV-related care, hormone replacement therapy, and gender-affirming surgeries. Approximately 8 percent of LGBTQ people report having either delayed or forgone medical care due to fear of discrimination, with rates of avoidance particularly high for transgender people and for those who have already experienced discrimination in a healthcare setting.[iii] Transgender people suffer significant health disparities aggravated by stigma, discrimination, and socioeconomic barriers, including disproportionately high rates of clinical depression and anxiety, smoking and drug use, HIV infection, and suicide.[iv] Unequal access to healthcare compounds these health problems. Many LGBTQ people struggle to find healthcare providers who "offer the services they need," will treat them with respect, or provide them with care at all.[v] According to Human Rights Watch, in 2016, 8 percent of lesbian, gay, and bisexual people and 29 percent of transgender people were denied care by a provider because of their sexual orientation or gender identity, and 9 percent of lesbian, gay, and bisexual people and 21 percent of transgender people experienced harassment from a provider.[vi]

Discrimination is also a barrier to healthcare access for women. Nearly one in five women report experiencing gender-based discrimination from a doctor or at a health clinic, and one in ten report avoiding seeking medical care due to discrimination concerns.[vii] Avoidance rates are particularly high for Native American, Latina, and LGBTQ women, and black women. This aggravates broader health disparities between white women and

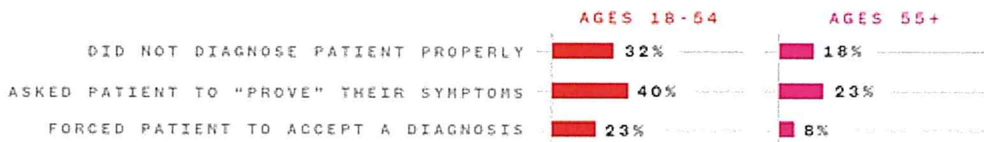
women of color. For example, black women are almost four times as likely to die in childbirth than white women, and women of color experience disproportionately high rates of diabetes and heart disease.[viii] Additionally, discrimination rates are particularly high for women suffering from chronic conditions. According to a 2019 TODAY and SurveyMonkey poll, 26 percent of women with chronic pain diagnoses felt that their symptoms were ignored or dismissed, compared with only 18 percent of men, with particularly high dismissal rates for women under the age of 34.[ix] Women also more often reported feeling pressured to prove their symptoms to their doctor than men.

Those diagnosed with chronic pain or a chronic condition felt that they had to prove symptoms to a health care provider...



DATA: TODAY|SURVEYMONKEY POLL, APRIL 22 - 26, 2019

Women diagnosed with chronic pain or a chronic condition would say their health care provider...



DATA: TODAY|SURVEYMONKEY POLL, APRIL 22 - 26, 2019

SB0738 would address some of these disparities by prohibiting providers from discriminating on account of religion, sex, age, marital status, gender identity, sexual orientation, genetic information, and disability in their provision of care. Given recent efforts to rollback healthcare antidiscrimination protections at the federal level, the need to strengthen Maryland's antidiscrimination laws is urgent. The Trump/Pence Administration has proposed rules that would allow insurance companies to deny coverage and healthcare providers to deny care based on a patient's gender identity or whether a patient has terminated a pregnancy.[x] By passing SB0738, Maryland would protect and advance access to healthcare for all Marylanders.

Discrimination should never be a barrier to healthcare. SB0738 would bring Maryland a step closer to equitable healthcare for all and reinforce our state's intolerance for prejudice. For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on SB0738.** Thank you for your time and consideration.

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[i] SteelFisher, Gillian K., Mary G. Findling, Sara N. Bleich, Logan S. Casey, Robert J. Blendon, John M. Benson, Justin M. Sayde, and Carolyn Miller. "Gender Discrimination in the United States: Experiences of Women." *Health Services Research* 54, no. S2 (2019): 1442–53. https://doi.org/10.1111/1475-6773.13217.

[ii] Id.

[iii] Thoreson, Ryan. "'You Don't Want Second Best': Anti-LGBT Discrimination in US Health Care." Human Rights Watch, July 23, 2018. https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care.

[iv] Safer, Joshua D., Eli Coleman, Jamie Feldman, Robert Garofalo, Wylie Hembree, Asa Radix, and Jae Sevelius. "Barriers to Health Care for Transgender Individuals." *Current Opinions in Endocrinology, Diabetes, and Obesity* 23, no. 2 (April 1, 2016): 168–71. https://doi.org/10.1097/MED.0000000000000227.

[v] Thoreson, Ryan. "'You Don't Want Second Best': Anti-LGBT Discrimination in US Health Care." Human Rights Watch, July 23, 2018. https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care.
[vi] Id.
[vii] SteelFisher, Gillian K., Mary G. Findling, Sara N. Bleich, Logan S. Casey, Robert J. Blendon, John M. Benson, Justin M. Sayde, and Carolyn Miller. "Gender Discrimination in the United States: Experiences of Women." *Health Services Research* 54, no. S2 (2019): 1442–53. https://doi.org/10.1111/1475-6773.13217.
[viii] "Reproductive Injustice: Racial and Gender Discrimination in U.S. Health Care." Center for Reproductive Rights, 2014. https://www.reproductiverights.org/sites/default/files/documents/CERD_Shadow_US.pdf.
[ix] TODAY. "Feel Discriminated against at the Doctor's Office? TODAY Survey Finds You're Not Alone." TODAY, May 13, 2019. https://www.today.com/health/today-survey-finds-gender-discrimination-doctor-s-office-serious-issue-t153641.
[x] See Proposed Rule 84 FR 27846. https://www.federalregister.gov/documents/2019/06/14/2019-11512/nondiscrimination-in-health-and-health-education-programs-or-activities.

Barbara_Noveau_DotheMostGood_FAV_SB738

Uploaded by: Noveau, Barbara

Position: FAV

Barbara Noveau, Executive Director, DoTheMostGood—Montgomery County

Committee: Health and Government Operations Committee

Testimony on: SB738—Health Care Providers and Health Benefit Plans—
Discrimination in Provision of Services

Position: Favorable

Hearing Date: February 26, 2020

Bill Contact: Senator Brian J. Feldman

To: The Honorable Delores G. Kelley, Chair, Finance Committee, and Committee Members

I am the executive director of DoTheMostGood—Montgomery Country, a progressive organization with more than 1600 members who reside in all areas of Montgomery County. One of the primary areas of focus for our organization is safeguarding and expanding access to affordable healthcare for all Marylanders. I am pleased to submit this testimony on behalf of our members in strong support of SB738.

DoTheMostGood strongly supports the enactment of SB738. This bill would codify section 1557, the anti-discriminatory section of the Affordable Care Act (ACA) into state law and add additional protected classes of individuals. This would ensure that no Marylander would be denied medical services or otherwise discriminated against by a hospital or related institution or insurance plan because of their race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability.

Ensuring that all Marylanders have access to an affordable, functioning health care system regardless of the status of the ACA at the Federal level is critical to the health care of over 400,000 Marylanders who are currently covered under the ACA as well as to other residents. With uncertain federal support of the ACA, it is imperative that Maryland enacts legislation that ensures that its citizens are not discriminated against in the provision of healthcare.

The provision of affordable health care to all of Maryland citizens is essential to public health, and to the state's economy. No one should be denied necessary medical treatment or insurance because of their race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability.

For the reasons stated above, DoTheMostGood recommends **a Favorable** report on SB738.

Respectfully Submitted,

Barbara Noveau
Executive Director, DoTheMostGood
barbara@dtmg.org
240-338-3048

HEAU_FAV_SB0738
Uploaded by: O'Connor, Patricia
Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

Writer's Direct Fax No.
(410) 576-6571

Writer's Direct Email:
poconnor@oag.state.md.us

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Direct Dial No.
(410) 576-6515

February 26, 2020

To: The Honorable Delores G. Kelley
Chair, Finance Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit

Re: Senate Bill 738 (Health Care Providers and Health Benefit Plans - Discrimination <u>in Provision of Services): Support</u>

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports Senate Bill 738 which would prohibit discrimination by facilities, providers, carriers and health maintenance organizations relating to health care. As the HEAU stated in its letter of support for House Bill 255 (prohibiting discrimination by hospitals and related institutions), people in Maryland require and deserve clarity regarding protections against discrimination in the delivery of care and health insurance. House Bill 959, also being heard today, contains provisions relating to discrimination in health insurance (§ 15-1A-22). We recognize there will likely be careful consideration in subcommittee of how to structure the health care related antidiscrimination protections and would welcome an opportunity to participate in that effort.

This bill would expressly expand such protections beyond the narrow protections in Health-General § 19-355, which provides that a hospital or related institution cannot discriminate in providing personal care based on an individual's race, color or national origin. As currently enacted, the section is at variance with the full panoply of anti-discrimination protections contained in Health - General, § 19-342, Hospital patient's bill of rights (PBOR law), and State Government, § 20-304, Maryland's public accommodation law. The apparent gaps in Health-General § 19-355's anti-discrimination protections have been covered by Section 1557 of the Affordable Care Act since its enactment, but federal regulatory proposals intended to diminish those protections, and the risk of repeal, render continued reliance on Section 1557 uncertain.

We believe many health care consumers in Maryland assume anti-discrimination protections already exist in State law, and that the protections will continue uninterrupted, independent of the Affordable Care Act. We look forward to working with other stakeholders to maintain that continuity for consumers and to clarity for those involved in health care delivery and health insurance that discrimination against protected classes is prohibited in Maryland.

We urge the committee to give a favorable report to the bill approved by the subcommittee after stakeholder input.

Erin_Reed_FAV_SB 738
Uploaded by: Reed, Erin
Position: FAV

Support SB 738
February 25, 2020

Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services
Support SB 738

I consider myself very good at navigating bureaucracy. I am white, middle class, and work from home in a digital job. I am also very organized. In spite of all of this, I have still faced month-long hurdles to getting health care and denials of service due to my trans identity.

Starting with Kaiser Permanente, who I informed about my transgender identity, I was unable to get on hormone therapy for many months afterwards. My doctor said they would put a request in but nothing ever came of it. She said the trans healthcare team would contact me, they did not. 3 months later, same thing. I ended up going to Planned Parenthood in Pennsylvania to get hormones through informed consent, but Kaiser's insurance did not cover it because it wasn't at a Kaiser facility.

Once I was on hormones, I tried to go through Kaiser again. Not only would they not cover it, they said that I would have to get off hormones and go to their therapist in house in order to be approved for hormones. This is not required by other insurances in the Maryland Marketplace - informed consent is covered by Carefirst, for instance.

I fear for other trans people who enter the Kaiser system not knowing of this requirement and have to get off of their hormones.

On top of it, Kaiser was unwilling to even test my blood for my hormone levels while I was getting care at Planned Parenthood. I tweeted about this which resulted in a call from Kaiser and my levels being tested only after raising hell.

I ended up switching out from Kaiser to Carefirst. Carefirst has been better, but I am still experiencing problems. One major problem I am experiencing is the lack of injection coverage: Injections, which I require because I do not tolerate the anti-androgen drug spironolactone, is covered as a "medical benefit" and not a "pharmacy benefit". As a result, I can get denied coverage for my prescription without ever getting a denial of coverage letter.

I pay for my hormone therapy out of pocket and I am positive many other people do too.

I am fearful of the process for gender affirming facial surgery and gender reassignment surgery, as I hear from others that it is an absolute crapshoot what will and will not be covered. I have a therapist writing a letter that my facial surgery is medically necessary for coverage, and some

states like Massachusetts require coverage for gender affirming facial surgery, but Maryland doesn't explicitly require it like Massachusetts does.

On top of all of this, I have paid thousands out of pocket for removal of my beard. I haven't even tried getting it covered - everyone in the local group gets denied this very basic but very expensive gender affirming procedure.

I ask the committee to provide a favorable report for SB 738.

Sincerely,

Erin Reed

MACS_FWA_SB 738
Uploaded by: Kallins, Lauren
Position: FWA

MACS
Maryland Association of Community Services

ph 410-740-5125
ph 888-838-6227
fax 410-740-5124

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Senate Finance Committee

SB 738: Health Care Providers and Health Benefit Plans – Discrimination in Provision of Services

Position: Support with Amendment
February 26, 2020

The Maryland Association of Community Services (MACS) is a non-profit association of over 100 agencies across Maryland serving people with intellectual and developmental disabilities (IDD). MACS members provide residential, day and supported employment services to thousands of Marylanders, so that they can live, work and fully participate in their communities.

Unlike large hospitals and other health care facilities, DDA-licensed residential providers (included in the definition of "related institutions") provide highly individualized supports to people with IDD in small, home-settings typically comprised of 2-4 people. Best practices in the field of developmental disabilities require a high degree of choice for people using supports-- including roommates, personal preferences, needs, employment, other activities, healthcare, etc.—all of which are important factors taken into consideration when a provider determines whether or not they are able to deliver the appropriate supports needed by a given person with IDD. These are decisions based on the expertise and staffing of the provider as well as the unique needs of other people with IDD who the provider may also be supporting in a particular home. Situations arise where a person's needs, related to their disability, and/or the gender make-up of a home, as well as the personal choice of the other people already living in a home contribute to a decision that a provider is not able to accept a person into services. This amendment complies with federal guidelines regarding individual choice, and allows providers to ensure that they can meet the needs of the individuals they serve.

Respectfully submitted in support with the attached amendment.

AMENDMENT REQUESTED BY
MARYLAND ASSOCIATION OF COMMUNITY SERVICES

SB 738 - HEALTH CARE PROVIDERS AND HEALTH BENEFIT PLANS - DISCRIMINATION IN PROVISION OF SERVICES

On page 1, after line 18, insert:

Section (B) of this section does not prevent providers of services to developmentally disabled individuals under Title 7 of the Health General Article from making a determination of whether to admit someone based on the ability of the provider to meet the needs of the individual, or the rights and preferences of individuals affected by the admission.

Explanation:

Unlike large hospitals and other health care facilities, DDA-licensed residential providers (included in the definition of "related institutions") provide highly individualized supports to people with IDD in small, home-settings typically comprised of 2-4 people. Best practices in the field of developmental disabilities require a high degree of choice for people using supports-- including roommates, personal preferences, needs, employment, other activities, healthcare, etc.—all of which are important factors taken into consideration when a provider determines whether or not they are able to deliver the appropriate supports needed by a given person with IDD. These are decisions based on the expertise and staffing of the provider as well as the unique needs of other people with IDD who the provider may also be supporting in a particular home. Situations arise where a person's needs, related to their disability, and/or the gender make-up of a home, as well as the personal choice of the other people already living in a home, contribute to a decision that a provider is not able to accept a person into services. This amendment complies with federal guidelines regarding individual choice and allows providers to ensure that they can meet the needs of the individuals they serve.

LifeSpan_Danna Kauffman_FWA_SB0738
Uploaded by: Kauffman, Danna
Position: FWA

Keeping You Connected…Expanding Your Potential…
In Senior Care and Services

TO: The Honorable Delores G. Kelley, Chair
Members, Senate Finance Committee
The Honorable Brian Feldman

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
Richard A. Tabuteau

DATE: February 26, 2020

RE: **SUPPORT WITH AMENDMENT** – *Senate Bill 738 – Health Care Providers and Health Benefit Plans – Discrimination in Provision of Services*

On behalf of the LifeSpan Network, the largest and most diverse senior care provider association in Maryland representing nursing facilities, assisted living providers, continuing care retirement communities, medical adult day care centers, senior housing communities and other home and community-based services, we support with amendment Senate Bill 738, which alters the discrimination laws as it applies to hospitals and related institutions (nursing facilities, assisted living and others) by expanding the list of protected clauses. Similar provisions are included in the bill prohibiting discrimination by an individual licensed or certified by the Maryland Department of Health (MDH) or by health benefit plans.

With regard to the provisions related to individuals licensed or certified by MDH or by health benefit plans, this bill contains an important qualifier that specifies that care may be refused, withheld or denied if it is based on the inability to comply with the usual and regular requirements, standards and regulations governing the health occupation. We believe that this is an important provision and should be added to the section on related institutions.

On page 2, after line 12, insert:

"(B) THIS SECTION DOES NOT PROHIBIT A HOSPITAL OR A RELATED INSTITUTION FROM REFUSING, WITHHOLDING FROM, OR DENYING TO ANY INDIVIDUAL MEDICAL SERVICES FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS IMPOSED BY THE LICENSED OR REGULATED PERSON, UNLESS THE REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY."; in lines 13 and 19, respectfully, strike "(B)" and (C)" and substitute "(C)" and "(D)", respectfully.

For more information call:
Danna L. Kauffman
Pamela Metz Kasemeyer
Richard A. Tabuteau
410-244-7000

7090 Samuel Morse Drive, Suite 400, Columbia, MD 21046
410-381-1176 Fax 410-381-0240 www.LifeSpan-Network.org

BCHD_FWA_SB 738
Uploaded by: Nibber, D'Paul
Position: FWA

BERNARD C. "JACK" YOUNG
MAYOR

Office of Government Relations
88 State Circle
Annapolis, Maryland 21401

SB 738

February 26, 2020

TO: Members of the Senate Finance Committee

FROM: Nicholas Blendy, Deputy Director of Government Relations

RE: Senate Bill 738 – Health Care Providers and Health Benefit Plans - Discrimination in Provision of Services

POSITION: SUPPORT WITH AMENDMENT

Chair Kelley, Vice-Chair Feldman, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 738 **with amendment**.

Senate Bill 738 aims to protect vulnerable populations by requiring hospitals and related institutions to provide medical services to individuals regardless of certain immutable characteristics. Additionally, the bill alters the characteristics of an individual on the basis of which hospitals and related institutions are prohibited from discriminating against the individual in certain actions; and, provides that certain provisions of the Act do not prohibit certain persons from refusing, withholding from, or denying any person services for certain reasons except under certain circumstances

Reflecting and expanding on the Americans with Disabilities Act, the bill would seek to protect individuals based on the following characteristics: sex, sexual orientation, gender identity, marital status, religion, age, disability, or genetic information. Further, SB 738 would broaden and clarify the language of Section 19-355 of the Health Article to include the withholding or denial of medical services based on the aforementioned characteristics.

Recently, the Trump Administration promulgated rules that will significantly harm access to fundamental, patient-centered health services across the country. Perhaps

Annapolis – phone: 410.269.0207 • fax: 410.269.6785
Baltimore – phone: 410.396.3497 • fax: 410.396.5136
https://mogr.baltimorecity.gov/

the most negatively impactful would be "Protecting Statutory Conscience in Rights in Health Care," commonly known as the "conscience clause" rule.

This policy poses distinctive and significant harm to the health of Baltimore City's, and the State's, residents. Without the protections codified in SB 738, many of Baltimore City's most vulnerable communities will be at risk of losing access to crucial health services and programs.

Conscience Clause

The "conscience clause" allows hospital administrative staff, along with healthcare providers and organizations, to withhold services, information, and referrals in the case of religious or moral opposition.[1] By sanctioning religious or moral objections, the Trump Administration is potentially sanctioning discrimination against patients, especially those in our most vulnerable communities. LGBTQ individuals in Baltimore and around Maryland could be denied care for important health services simply because of their sexual orientation or gender identity.

A 2015 survey found that 29% of transgender individuals nationally had reported an incident where a provider refused to see them because of their gender identity.[2] Another study found that 18.4% of LGBTQ individuals avoided doctor's offices because of discrimination.[3] This type of routine discrimination severely limits healthcare utilization, deepening already significant health disparities. Compared to heterosexual individuals, LGBTQ individuals have higher rates of chronic illness, sexually transmitted diseases, and behavioral health conditions.[4]

Potential Amendment

BCA offers the following friendly amendment to SB 738:

- on page 2, in line 16, between "color," and "**RELIGION,**", include "**CITIZENSHIP,**"

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[1] Sonfield, A. (2018, March 21). How The Administration's Proposed 'Conscience' Rule Undermines Reproductive
Health And Patient Care. Retrieved January 17, 2019. from
https://www.healthaffairs.org/do/10.1377/hblog20180316.871660/f
ull/

[2] Mirza, S., Rooney, C. (2018, January 18). Discrimination Prevents LGBTQ People from Accessing Health Care. Retrieved January 17, 2019. from
https://www.americanprogress.org/issues/lgbt/news/2018/01/18/445130/discrimination-prevents-lgbtq-people-accessing-health-care/

[3] Singh, S., Durso, L. (2017, May 2). Widespread Discrimination Continues to Shape LGBT People's Lives in Both Subtle and Significant Ways. Retrieved January 17, 2019. from
https://www.americanprogress.org/issues/lgbt/news/2017/05/02/429529/widespread-discrimination-continues-shape-lgbt-peoples-lives-subtle-significant-ways/

[4] Kates, J. et al. (2018, May). Health and Access to Care and Coverage for
Lesbian, Gay, Bisexual, and Transgender
Individuals in the U.S. Retrieved January 17, 2019. from http://files.kff.org/attachment/Issue-Brief-Health-and-Access-to-Care-and-Coverage-for-LGBT-Individuals-in-the-US

In addition to the "conscience clause" rule, the Trump Administration promulgated 83 FR 51114, commonly known as the "public charge" rule, targeting another vulnerable group facing difficulties regarding access to medical services, documented immigrant residents. The rule would make green card access more difficult for any immigrant who has used public assistance services such as Medicaid and Supplemental Nutrition Assistance Program ("SNAP"). A Kaiser Family Foundation report found that 94% of noncitizens nationally have at least one factor that could potentially count against them in a public charge determination.[5] Consequently, the report predicted that the rule has the potential to cause 15% to 35% of households with a noncitizen to disenroll from Medicaid and CHIP, meaning anywhere from 2.1 to 4.9 million Medicaid/CHIP enrollees will be left without coverage.[6]

In Baltimore City, immigrant families avail themselves of many BCHD-run programs and services including vision screenings and treatments in schools, school-based health centers and suites, family planning and sexually-transmitted diseases and infections ("STDs/STIs") services, dental clinics, meals for seniors, and home visits for infant care, all of which could be construed as "public benefits." Many children from immigrant families also rely on school-based health centers for routine vaccinations for diseases like measles, mumps, and various STDS. By avoiding these vital programs, many immigrant parents could be jeopardizing their family's well-being as well as their own livelihoods. This is especially pertinent to both the City's and State's response to the Coronavirus.

The rule's potential impact on immigration status may also dampen future enrollment of immigrants in public assistance, thereby limiting use of routine preventative and primary healthcare.[7] Including protections in HB 1120 against discrimination based on citizenship status will help allay the fears of our immigrant communities.

SB 738 vs. Patient Bill of Rights

It is our belief that 2019's Patient Bill of Rights (HB 145/SB 301) provided great relief to the groups discussed above, and that SB 738 could help bolster its provisions. Whereas the former requires reporting to the Maryland Department of Health's Office of Healthcare Quality ("OHQ"), the latter would create a cause of action enforceable by the Maryland Commission on Civil Rights ("CCR"), further empowering individuals who have suffered discrimination. Moreover, SB 738 expands the amount of protected classes to effectively mirror the Patient Bill of Rights, thereby allowing for parallel enforcement by OHQ and CCR.

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[5] Artiga, S., Garfield, R., Damico, A. (2018, October). Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid. Retrieved January 25th, 2019. http://files.kff.org/attachment/Issue-Brief-Estimated-Impacts-of-the-Proposed-Public-Charge-Rule-on-Immigrants-and-Medicaid

[6] Ibid.

[7] Parmet, W. (2018, September 27). The Health Impact Of The Proposed Public Charge Rules. Retrieved January 17, 2019. fromhttps://www.healthaffairs.org/do/10.1377/hblog20180927.100295/full/

Altogether, SB 738 proactively codifies patient protections to ensure that no matter who you are, who you love, or what type of care you seek; your access to quality, affordable healthcare is never compromised. In Baltimore, this legislation will help insulate our city's vulnerable communities from politically motivated attacks on their health. It would help slow disenrollment from public benefits, promote continued healthcare utilization, and defend access to necessary health services. SB 738 is a necessary step towards safeguarding healthcare as a fundamental and apolitical human right for Marylanders.

We respectfully request a **favorable with amendment** report on Senate Bill 738.

MHA_FWA_SB 738
Uploaded by: Raswant, Maansi
Position: FWA

Maryland
Hospital Association

**Senate Bill 738-Health Care Providers and Health Benefit Plans-
Discrimination in Provision of Services**

Position: ***Support with Amendments***
February 26, 2020
Senate Finance Committee

MHA Position

On behalf of the Maryland Hospital Association's (MHA) 61 member hospitals and health systems, we appreciate the opportunity to comment on Senate Bill 738. No Marylander should ever face discrimination, particularly in a health care setting, where people often are at their most vulnerable. That is why the state's hospitals have a long-standing commitment to anti-discrimination and equitable care. Not only is that effort central to the mission of Maryland's health care providers, it also is, rightly, mandated by federal and state laws and regulations.

At the federal level, **anti-discrimination protections are specifically included in section 1557 of the Affordable Care Act (ACA),** which "builds on long-standing and familiar federal civil rights laws: Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975."[i] There also are numerous state laws and regulations prohibiting discrimination. The revised Patient Bill of Rights, which passed in 2019, includes anti-discrimination provisions that require all Maryland hospitals to treat patients without discrimination based on race, color, national origin, ethnicity, age, gender, sexual orientation, gender identity or expression, physical or mental disability, religion, language, or ability to pay.

As a member of the consumer protections work group, we appreciate discussions about codifying ACA protections in Maryland state law given uncertainty at the federal level. With respect to the anti-discrimination protections, the work group focused on discrimination protections related to health plans but did not vet additional sections of the bill. We appreciate the intent of the legislation but recommend technical amendments to the bill to clarify the provider sections. We look forward to working with the sponsor and the committee on potential amendments. The ACA's consumer protections have brought gains in coverage and improved health care delivery by helping people receive the right care, at the right time, in the right setting.

For these reasons, we respectfully ask the committee to allow the appropriate subcommittee to work through amendments on the bill with a result for a ***favorable*** report.

For more information, please contact:
Maansi Raswant
Mraswant@mhaonline.org

[i] U.S. Department of Health & Human Services, https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html