

Written Testimony re: MD SB 275, Christian Science Committee on Publication of Maryland, Favorable with Amendments

Chair Kelley, Vice Chair Feldman, and members of the Senate Finance Committee:

As the designated representative of Christian Science in the state of Maryland, I'm hoping you'll consider the availability of this proposed program to Maryland residents who turn to religious nonmedical methods of health care, similar to other states that have adopted paid family and medical leave programs. As proposed, the definition of "serious health condition" in Section 1 of SB 275 (Md. Code Ann., Labor and Employment, §8.3-101, DEFINITIONS: GENERAL PROVISIONS) would limit access to paid family and medical leave benefits to those under a medical form of care:

(O) (1) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, AN INJURY, AN IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION THAT INVOLVES:
(I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL HEALTH CARE FACILITY;
(II) CONTINUED TREATMENT BY A LICENSED HEALTH CARE PROVIDER; OR
(III) CONTINUED TREATMENT OR SUPERVISION AT HOME BY A LICENSED HEALTH CARE PROVIDER OR OTHER COMPETENT INDIVIDUAL UNDER THE SUPERVISION OF A LICENSED HEALTH CARE PROVIDER.

The limitation of serious health condition to situations where someone is receiving continued treatment by a licensed health care provider or continued treatment or supervision at home by a licensed health care provider or other competent individual under the supervision of a licensed health care provider serves to **preclude availability of the benefit to someone relying on the services of a Christian Science practitioner for a serious illness.**

By way of background, Christian Science is a system of religious nonmedical health care that is available to everyone, and has been practiced in Maryland and around the world for over a century. Individuals choosing Christian Science for their care do so because they have found it to be reliable and effective, and are always free to choose the form of health care treatment that best meets their needs. Christian Science practitioners are individuals in the full time practice of treating those who choose this form of healing to address illness, injury, impairment or other physical or mental conditions that fit within the proposed definition of "serious health condition." However, the care they provide is an entirely spiritual approach to healing without the use of medical intervention or medication, and such care is not provided in a hospital or under the direction of a licensed health care provider. Maryland expressly excludes Christian Science practitioners from state medical licensing requirements pursuant to Md. Code Ann., Health Occ. § 14-102(a)(2), similar to medical practice act exemptions in other states.

Proposed amendment: There are several ways in which the problem identified above can be corrected. One approach is to make the proposed language consistent with the federal family and medical leave law, as well as various state paid family and medical leave laws, by removing the licensing limitations in the definition of "serious health condition" (Sec. 8.3-101) and in the employer certification requirements (Sec 8.3-403) that restrict treatment and require certification of a condition to occur through a "licensed" health

care provider. An alternative approach would be to add the phrase "or Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts" every time the term "licensed health provider" appears in the four places it is mentioned in the bill.

Attachment A includes a sampling of references to some of the ways in which states with paid family and medical leave laws have included avenues through which those relying on religious nonmedical care can utilize paid family and medical leave in support of their family health needs. Many of these examples are modeled after, or directly reference, language in the Federal Family & Medical Leave Act (FMLA) of 1993 which authorizes the United State Secretary of Labor to determine through regulation those who are capable of providing health care services for purposes of administering the FMLA, and which led to regulatory approval of Christian Science practitioners among others on the list. Also included are illustrations from Maryland's State Personnel Sick Leave law (Md. Code Ann., State Pers. & Pens. § 9-504) and its Department of Transportation Family and Medical Leave regulation (Md. Regs. Code 11.02.13.02), both of which expressly permit care from a Christian Science practitioner to satisfy eligibility requirements under these respective programs for state employees.

We would appreciate members of the Committee making similar provision in this proposal as part of their effort to improve the lives of Maryland residents. To better achieve that goal, it should encompass the forms of care to which Maryland residents effectively and responsibly turn. I would be happy to be a resource or answer any questions in furtherance of this important issue.

Respectfully submitted,

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Attachment A

Illustrations from Maryland:

Maryland Dep't of Transportation Family & Medical Leave - Md. Regs. Code 11.02.13.02

Section 11.02.13.02 - Definitions

.02 Definitions.

. . . B. Terms Defined.

. . . (8) "Health care provider" means a:

. . . (h) Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts; . . .

Maryland State Personnel Sick Leave - Md. Code Ann., State Pers. & Pens. § 9-504

(a) An employee who uses sick leave for 5 or more consecutive workdays for personal illness or disability or the illness or disability of a member of the employee's immediate family may not receive payment under this subtitle unless the employee gives the employee's immediate supervisor an original certificate of illness or disability.

(b) The certificate required under subsection (a) of this section shall be signed by one of the following:

. . . (3) an accredited Christian Science practitioner; . . .

Illustrations from other jurisdictions:

Federal Family & Medical Leave Act (FMLA) of 1993 - 29 C.F.R. § 825.102

§ 825.102 Definitions.

For purposes of this part:

. . . Health care provider means:

(1) The Act defines "health care provider" as:

. . . (ii) Any other person determined by the Secretary to be capable of providing health care services.

(2) Others "capable of providing health care services" include only:

. . . (iii) Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

Note: This definition of "health care provider" pertains to several provisions that relate to one's qualification for FMLA leave as set forth in 29 C.F.R. § 825.112, including the definitions of "serious health condition" (29 C.F.R. § 825.102) and "continuing treatment by a health care provider" (29 C.F.R. § 825.115); and the threshold for determining whether an employee is unable to perform the functions of the position (29 C.F.R. § 825.123).

California Paid Family Leave - Cal. Unemp. Ins. Code § 3302(I)

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider, as defined in Section 12945.2 of the Government Code.

Note: Section 12945.2 of the Government Code defines “health care provider” to include: “[a]ny other person determined by the United States Secretary of Labor to be capable of providing health care services under the FMLA.”

Cal. Gov't. Code § 12945.2(b)(9)(B); 29 C.F.R. § 825.102 (above).

Connecticut Family & Medical Leave - Conn. Gen. Stat. Ann. § 31-51kk(9)(D)

“Health care provider” means . . . (D) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; . . .

Note: The definition of “health care provider” is pertinent to the definition of “serious health condition”, certification of need for leave and return to work.

Maine Family & Medical Leave - Me. Rev. Stat. tit. 26, § § 843(4-A), (6), 844(1)(B)

“Serious health condition” means an illness, injury, impairment or physical or mental condition that involves:

- A. Inpatient care in a hospital, hospice or residential medical care facility; or
- B. Continuing treatment by a health care provider.

Me. Rev. Stat. tit. 26, § 843(6)

“Health care provider” means:

- A. A doctor of medicine or osteopathy who is licensed to practice medicine or surgery in this State; or
- B. Any other person determined by the Secretary of Labor to be capable of providing health care services.

Me. Rev. Stat. tit. 26, § 843(4-A); 29 C.F.R. § 825.102 (above)

The employer may require certification from a physician to verify the amount of leave requested by the employee, except that an employee who in good faith relies on treatment by prayer or spiritual means, in accordance with the tenets and practice of a recognized church or religious denomination, may submit certification from an accredited practitioner of those healing methods;

. . .

Me. Rev. Stat. tit. 26, § 844(1)(B)

Massachusetts Paid Family Leave - see Mass. Gen. Laws Ann. Ch. 175M § 1

Massachusetts General Laws, Chapter 175 “Family and Medical Leave” defines “Health care provider” to be “an individual licensed to practice medicine, surgery, dentistry, chiropractic, podiatry, midwifery or osteopathy or any other individual determined by the department to be capable of providing health care services.”

Note: The Massachusetts Department of Family and Medical Leave includes “Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts” among those capable of providing health care services: 458 Mass. Regs. Code 2.02

Oregon Family and Medical Leave Insurance Program - O.R.S. 657B.010(23)

“Serious health condition” has the meaning given that term in ORS 659A.150.

Note: ORS 659A.150(7) defines “serious health condition” to include “[a]n illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care.” The term “health care provider” referenced in that definition includes: “A person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely through spiritual means, including but not limited to a Christian Science practitioner.” O.R.S. § 659A.150(b)