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OFFICE OF THE ATTORNEY GENERAL

February 19, 2024

TO: Joseline A. Pena-Melnyk, Chair
House Health and Government Operations Committee

FR: Office of the Attorney General

RE: HB 691 – Legally Protected Health Care – Gender-Affirming Treatment (**Support**)

The Office of the Attorney General writes in strong support of HB 691 to protect gender-affirming care.

The OAG supported last year's bill which provided legal protections for women and their health care providers engaged in reproductive health care. This bill seeks to shield another population that is similarly threatened.

In the U.S., states are sharply divided on issues involving deeply personal and intimate health care decisions. This bill provides protections for Maryland patients and providers against those out-of-state actors who seek to criminalize medical care that is legal in Maryland.

Gender Affirming Care is legal in Maryland. Last year, in passing the Trans Health Equity Act, the General Assembly recognized that Gender Affirming Care is medically necessary, and ensured equitable health care access for individuals who are transgender and gender diverse.

However, nearly half of states have introduced legislation to limit or attack such care and impose penalties on patients, parents, and providers including loss of licensure, civil penalties, and criminal lawsuits. If residents in these states travel to one of our nationally ranked medical institutions for care, they are at risk for penalties, sanctions, and criminal prosecution by states

that seek to impose their political will on states like Maryland that respect self-determination, bodily autonomy, and medical privacy.

This legislation is both critical and urgent. Last summer, Governor Moore signed an Executive Order to provide some protections for gender care, but the Executive Order could not offer all the protections that this legislation would provide, including:

- Prohibit liability insurers from taking adverse action against health care providers;
- Ensure licensing and regulatory boards do not take adverse action against practitioners as a result of providing gender affirming care; and
- Place limits on subpoenas, wiretapping warrants, ex parte orders, and foreign judgments that seek to further punitive investigations by other states into gender affirming care provided under the laws of this State.¹

It is vitally important to those who provide, support, or access gender affirming care in Maryland that we provide the highest possible guardrails for their safety, privacy, and liberty. The OAG is committed to defending health privacy for all legal medical care. Support of legal protections for gender affirming treatment is consistent with the goals and priorities of our office to combat inequities and protect the rights, responsibilities, and privileges of all Marylanders and those who seek sanctuary in our state.

We thank the sponsors for bringing HB 681 to you for consideration and urge a favorable report.

¹ Just last December the Texas Attorney General sent a civil investigative demand to Seattle Children's Hospital seeking access to the medical records of trans patients. The hospital refused to provide the records but has had to file suit in Texas to try to nullify the Attorney General's demands.