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Testimony in Support of SB 630 with Amendment

Real Property – Contract Liens – Medical Debt
Before the Judicial Proceedings Committee, February 14, 2024

We support Senate Bill 630 with amendment. The proposed legislation protects Marylanders who cannot afford to pay their medical debt from having liens on their homes. Liens undermine housing security, and consequently, human health. By restricting liens caused by overdue medical bills, Maryland can keep its citizens housed and healthy. However, by expressly excluding debt associated with “cosmetic procedures” from the definition of medical debt, the bill removes necessary protections for people who received cosmetic surgery that was the generally accepted standard of medical care and for a clear medical purpose for their circumstances. The legislation should be amended to remove this language and protect people from having their homes at risk due to all medical debt associated with medically necessary care.

I. Medical Debt Threatens the Health and Financial Security of Many Marylanders

Medical debt is a pervasive crisis. An estimated one fifth of Maryland adults possess medical debt.¹ In the United States, the total medical debt amounts to an estimated \$75 billion. Much of the individual medical debt is less than \$2,500, but this debt can seriously derail lives as many Americans cannot afford even minor expenses. Further, depending on state laws, people’s credit scores and homes can be threatened because of medical debt.²

Medical debt exacerbates health issues. Those affected by medical debt often struggle to afford basic necessities, including food and clothing. The burden of medical debt can further compound negative health outcomes, as families that might have used money for better education, healthier and varied diets, or any number of quality-of-life changes may direct their money instead towards costs associated with medical debt.

In addition, the financial burden from medical debt can discourage people from seeking medical treatment or continuing necessary medication. In one survey, 36% of people with medical debt said that they put off health care because of medical or dental debt.³ This can cause cascading negative health effects as people delay important medical procedures or medications.

¹ Keith Ericson & Tal Gross, *Limits on Medical-Debt Lawsuits in Maryland: Estimates of the Effect on Hospital Revenue*, ABELL FOUNDATION (Feb. 9, 2021), <https://abell.org/wp-content/uploads/2022/02/Final20Medical20Debt20Report.pdf>.

² Maanasa Kona & Vrudhi Raimugia, *State Protections Against Medical Debt: A Look at Policies Across the U.S.*, THE COMMONWEALTH FUND (Sept. 7, 2023), <https://www.commonwealthfund.org/publications/fund-reports/2023/sep/state-protections-medical-debt-policies-across-us>.

³ Sara Collins, Shreya Roy, & Relebohile Masitha, *Paying for It: How Health Care Costs and Medical Debt Are Making Americans Sicker and Poorer*, THE COMMONWEALTH FUND (Oct. 26, 2023), <https://www.commonwealthfund.org/publications/surveys/2023/oct/paying-for-it-costs-debt-americans-sicker-poorer-2023-affordability-survey>.

Social inequalities also arise from medical debt. In Maryland, medical debt disproportionately affects communities of color, and low-income individuals. Medical debt disparately harms marginalized communities.⁴

In many states, hospitals and debt collectors can use overdue medical debt to place a lien on an individual's home. A lien can prevent an individual from selling or refinancing their home. Thus, an individual, already burdened by medical debt, could be prevented from using the equity in their home to help alleviate their financial insecurity or from receiving the full equity in their home if they decide to sell. Protecting homes from medical debt induced liens, not only allows people to maintain some flexibility in addressing their finances, but it also keeps people housed. Housing, as a social determinant of health, is necessary to keeping people healthy.⁵

Maryland Code recognizes the importance of protecting residents' homes from debt by allowing for the homestead exemption in bankruptcy proceedings. This law protects up to \$25,150 of equity in one's home during bankruptcy proceedings.⁶ While this is helpful and provides a foundation for the proposal in Senate Bill 630, no one should face the prospect of losing the equity in their home due to debt from medically necessary care.

II. The Bill Will Protect All Marylanders from Unforeseen, Necessary Medical Debt

Senate Bill 630 seeks to provide protection for individuals with medical debt from having liens placed on their primary residence. The current Maryland law only protects those with medical debt from having hospitals place liens on their residence.⁷ This bill would expand that protection to medical debt stemming from any medication, procedure, service, or treatment from a medical professional, if that service or treatment is medically necessary.

However, the bill as written unnecessarily limits the protection it would provide. The definition of "medical debt" excludes any cosmetic procedure or service. Without defining what constitutes a cosmetic procedure under this bill, it leaves out protection for medical debt stemming from medically necessary plastic surgery that is within the generally accepted standard of care and for a clear medical purpose. This could include generally accepted procedures like breast reconstruction after a double mastectomy, breast reduction to alleviate back pain, or rhinoplasty for a deviated septum. A cosmetic procedure can also very well have a clear medical purpose, as with the example of a rhinoplasty, the procedure is both for the cosmetic enhancement of a person's appearance but also may be necessary to restore normal breathing and relieve abnormalities in the airway. Blepharoplasty to remove excess skin in the eyelid can be both for an aesthetic enhancement alongside the clear medical purpose of restoring proper vision.

⁴ Danielle Brown, *Medical Debt Can Lead to a Compounding Troubles for Low-Income Marylanders, Particularly for Black Families*, MARYLAND MATTERS (July 25, 2023), <https://www.marylandmatters.org/2023/07/25/medical-debt-can-lead-to-a-compounding-troubles-for-low-income-marylanders-particularly-for-black-families/#:~:text=Economic%20Action%20Maryland%20conducted%20a,debt%20they%20could%20not%20pay.>

⁵ U.S. Department of Health and Human Services, *Housing Instability*, <https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/housing-instability>.

⁶ Md. Code, Courts and § 11-504(f)(1)(i)(2); Real Property § 8-203(d)(3)(ii).

⁷ Md. Code, Health § 19-214.2.

Other states that protect against liens for medical debt do not limit the definition of medical debt in this way. New York, which prohibits all property liens based on medical debt, defines medical debt as an obligation to pay for the receipt of healthcare services, products, or devices provided by a hospital, medical professional, or ambulance service.⁸ New Mexico, which prohibits collection actions including liens against indigent patients for medical debt, defines medical debt as a debt arising from the receipt of health care services.⁹ In both instances, medical debt is based on the receipt of healthcare services and treatment. It does not bar certain types of care from being defined under “medical debt,” as is seen in this bill by prohibiting all cosmetic treatments.

In this case, the language in the bill at proposed §14-203.1(A)(2)(II) could be removed and still meet the intended goal of the bill. Alternatively, defining cosmetic surgery to allow for medically necessary plastic surgery to be protected as medical debt under the bill could fulfill a similar purpose.

While “medically necessary” is likewise not defined in the bill or Maryland statute, it still provides a guideline for the scope of protection. If this language is used alone—rather than describing what medical debt is not—the law will be able to stay relevant with advancements in medical care and changing accepted standards of care. It would allow for physician evaluation of what is and is not medically necessary, rather than the legislature.

III. Conclusion

Overall, the effect of this bill is important to protect individuals against actions that could threaten their housing as a result of unexpected medical debt. However, we want to ensure that all medically necessary treatments that are under the generally accepted standard of care and for a clear medical purpose are covered under this bill. If enacted the bill should protect all Marylanders against unforeseen medical debt and the financial hardship of a lien being placed on their primary residence, even if the medical debt stems from medically necessary cosmetic procedures. For these reasons we request a favorable with amendments report on Senate Bill 630.

This testimony is submitted on behalf of the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law, the University of Maryland, Baltimore, or the University of Maryland System.

⁸ NY CPLR § 5201; NY Pub. Health Law § 4925.

⁹ NM Code § 57-32-2 and 4.