

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 902 (Delegate Cullison, *et al.*)
Health and Government Operations

Health Occupations - Conversion Therapy for Minors - Prohibition (Youth
Mental Health Protection Act)

This bill prohibits specified mental health or child care practitioners from engaging in “conversion therapy” with a minor. A violation of this prohibition is considered unprofessional conduct and must be subject to discipline by the appropriate licensing or certifying board. Additionally, the bill prohibits the use of State funds to (1) conduct or refer an individual to receive conversion therapy; (2) provide health coverage for conversion therapy; or (3) provide a grant to, or contract with, any entity that conducts or refers an individual to receive conversion therapy. The Maryland Department of Health (MDH) must adopt implementing regulations.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local finances or operations, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Conversion therapy” means a practice or treatment by a mental health or child care practitioner that seeks to change an individual’s sexual orientation or gender identity, and includes any effort to change the behavioral expression of an individual’s sexual orientation; change gender expression; or eliminate or reduce sexual or

romantic attractions or feelings toward individuals of the same gender. The definition does not include specified practices, including sexual-orientation neutral interventions to prevent or address unlawful conduct or unsafe sexual practices and that do not seek to change sexual orientation or gender identity.

“Mental health or child care practitioner” means a practitioner licensed or certified by the State Board of Physicians; the State Board of Professional Counselors and Therapists; the State Board of Examiners of Psychologists; the State Board of Social Work Examiners; and the State Board for Certification of Residential Child Care Program Professionals. The definition also includes any other practitioner who is licensed or certified to provide counseling by the practitioner’s board.

Current Law/Background: According to a January 2018 report from The Williams Institute at the University of California Los Angeles School of Law, approximately 698,000 lesbian, gay, bisexual, or transgender (LGBT) adults have received conversion therapy in the United States, including about 350,000 LGBT adults who received treatment as adolescents. Additionally, approximately 20,000 LGBT youth (ages 13 to 17) are estimated to receive conversion therapy from a licensed health care professional before the age of 18.

According to The Williams Institute, conversion therapy has been practiced in the United States for over a century. Conversion therapy involves a range of techniques; talk therapy is the most common technique, but other more physical treatments are also used (*e.g.*, aversion treatments). Several professional associations, including the American Medical Association, the American Psychological Association, and the American Academy of Pediatrics, have issued statements opposing the use of conversion therapy.

A federal bill, the Therapeutic Fraud Prevention Act, was introduced in April 2017. The bill prohibits conversion therapy from being provided in exchange for monetary compensation and prohibits associated advertisements.

According to the Movement Advancement Project, as of February 2018, nine states (California, Connecticut, Illinois, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, and Vermont) and the District of Columbia have banned conversion therapy for minors.

State Fiscal Effect: The Department of Budget and Management advises that the State Employee and Retiree Health and Welfare Benefits Program does not cover conversion therapy services. Medicaid also does not cover these services.

The State Board of Physicians advises that it has not received complaints regarding conversion therapy, but that if such a complaint was received, the board would investigate

the complaint as a possible standard of care violation through the board's disciplinary proceedings (which includes peer review procedures). The State Board of Professional Counselors and Therapists also advises that the board has not received complaints regarding this practice, although it is not specifically prohibited by the Maryland Professional Counselors and Therapists Act or board regulations.

Several health occupations boards, including the State Board of Physicians, the State Board of Professional Counselors and Therapists, the State Board of Examiners of Psychologists, and the State Board of Social Work Examiners, are authorized to impose disciplinary fines in addition to or in lieu of certain disciplinary action. Such fines are remitted to the general fund. Thus, to the extent these health occupations boards receive complaints and impose disciplinary fines against licensees as a result of the bill, general fund revenues may increase minimally. Any additional disciplinary proceedings can likely be handled with existing resources.

MDH can adopt implementing regulations with existing resources.

Local Fiscal Effect: The Maryland Association of County Health Officers advises that local health departments (LHDs) do not provide conversion therapy as it is not a recommended or accepted practice. Thus, the bill does not affect LHD finances or operations.

Small Business Effect: Potential meaningful for mental health or child care practitioners that offer conversion therapy. The bill explicitly prohibits the practice of conversion therapy with minors under State law and subjects specified practitioners to discipline for the practice by the appropriate licensing or certifying board. The bill also prohibits the award of State funds or contracts to entities that provide or refer individuals for such services.

Additional Information

Prior Introductions: None.

Cross File: SB 1028 (Senator Madaleno, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Association of County Health Officers; Maryland Commission on Civil Rights; Maryland State Department of Education; Department of Budget and Management; Maryland Department of Health; Department of Juvenile Services; The Williams Institute; The Movement Advancement Project; Department of Legislative Services

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nb/jc

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