

State of Maryland

Commission on Civil Rights

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



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February 13, 2020

Senate Bill 547 - Health Care Facilities - Hospitals and Related Institutions - Discrimination Protections Position: Letter of Concern

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.

Current law prohibits a hospital or related institution from discriminating in providing care for an individual based on that individual’s race, color, or national origin. Senate Bill 547 expands this list of protected classes to include sex, sexual orientation, gender identity, religion or creed, citizenship, age, physical or mental disability, genetic information, or ancestry. The bill further states that an individual shall not be discriminated against during admission to the hospital or related institution, in addition to the existing prohibition regarding providing care. Finally, SB547 prohibits a hospital or related institution from discriminating against an individual in administering a treatment or procedure sought by the individual if such a treatment or procedure is (1) capable of being executed by the institution and is accompanied by a referral, or (2) is otherwise deemed medically necessary.

While MCCR understands and supports expanding anti-discrimination protections for all, including in the area of health care accessibility and deliverability, the agency has concerns with this bill as presented.

First, the Maryland Commission on Civil Rights is concerned that this legislation is not assigned to the appropriate agency for enforcement. It is the Commission’s understanding that the Maryland Department of Health’s Office of Health Care Quality currently takes complaints from patients who are concerned about the health care or treatment they received or did not receive. Page 2, lines 5 through 11 add language to existing anti-discrimination protections in the Health – General Article that expand the Commission’s scope of enforcement to include health care delivery. The agency does not have the subject matter expertise to be able to investigate

allegations of discrimination regarding the adequacy or denial of a treatment or a procedure that the patient alleges they are due.

Second, if MCCR's statutory jurisdiction is expanded to include investigating discrimination complaints about health care delivery, the agency will require additional resources from the State. These resources will be needed to ensure that current case processing times are not adversely impacted. Commission staff are experiencing high case inventories due to an increase in complaint intakes over the past few years. Any increase in case inventories 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 accessing MCCR services seeking resolutions to allegations of unlawful discrimination.

Third, MCCR will require additional resources to guarantee that all staff are adequately equipped and trained to enforce the provisions of SB547. All investigators at MCCR are cross-trained to investigate complaints in each of our areas of jurisdiction. This enables the Commission to evenly spread workloads out across all staff. Because MCCR is unaware of any other revenue sources to cover the costs associated with equipping and training investigators with what they need, MCCR must rely on increased funding from the State to cover the cost.

Thank you for your time and consideration of the information contained in this letter. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.