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**HB 255**

February 5, 2020

**TO:** Members of the House Health and Government Operations Committee

**FROM:** Nicholas Blendy, Deputy Director of Government Relations

**RE:** House Bill 255 – Health Care Facilities - Hospitals and Related Institutions - Discrimination Protections

**POSITION: SUPPORT**

Chair Pendergrass, Vice-Chair Peña-Melnyk,, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 255.

House Bill 255 aims to protect vulnerable populations by requiring hospitals and related institutions to admit and treat individuals regardless of certain immutable characteristics and type of treatment sought. Reflecting the Americans with Disabilities Act, it expands protected classes for healthcare admittance and treatment to include sex, sexual orientation, gender identity, religion or creed, citizenship, age, physical or mental disability, veteran status, or genetic ancestry. Further, it protects individuals from being denied care based on the treatment or procedure they are seeking if said treatment or procedure is provided by the hospital or related institution.

Recently, the Trump Administration promulgated three rules that will significantly harm access to fundamental, patient-centered health services across the country. All three policies concern healthcare access for vulnerable communities spanning from recent immigrants to the LGBTQ community:

- Title X Compliance with Statutory Program Integrity Requirements provisions, commonly known as the “gag rule”

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- Protecting Statutory Conscience in Rights in Health Care, commonly known as the “conscience clause”
- 83 FR 51114, commonly known as the “public charge”

These policies pose distinctive and significant harm to the health of Baltimore City’s, and the State’s, residents. Without the protections codified in HB 255, many of Baltimore City’s most vulnerable communities will be at risk of losing access to crucial health services and programs.

### **Gag Rule**

The Trump Administration’s nearly implemented “gag” rule would significantly limit or eliminate access to the reproductive health services by preventing Title X funds from flowing to any healthcare institution that provides abortion services or referrals for abortions.<sup>1</sup>

In 2017, over 16,000 unique, low-income clients used Baltimore City’s 23 Title X clinics (including the Baltimore City Health Department [“BCHD”], its subcontractors, and Planned Parenthood) to receive cancer screenings, sexually-transmitted disease testing, pregnancy and motherhood counseling, and publicly funded contraceptive services. Access to these services is indispensable to the health of low-income residents. Title X funded services in Baltimore have helped decrease teen birth rates by 61% from 2000 and 2016, prevent the spread of disease, and provide care to the nearly 1 in 3 Baltimore City women in need of contraception.<sup>2</sup> Without institutional safeguards like HB 255, low-income residents seeking safe, quality, and affordable reproductive healthcare could face significant discrimination and be left with nowhere to turn.

Further, because the “gag” rule prohibits medical professionals from providing comprehensive, evidence-based abortion counseling and referrals, community health centers may discontinue Title X participation out of fear for medical liability, mostly stemming from the inability to provide accurate, medically-sound advice to patients.<sup>3</sup> HB 255 could potentially protect both healthcare providers advising patients on comprehensive reproductive health care options and patients seeking evidence-based family planning counseling and services.

### **Conscience Clause**

The “conscience clause” allows hospital administrative staff, along with healthcare providers and organizations, to withhold services, information, and referrals in

<sup>1</sup> Sobel, L., Rosenzweig, C., Salganicoff, A., & Long, M. (2018, November 21). Proposed Changes to Title X: Implications for Women and Family Planning Providers. Retrieved January 17, 2019, from <https://www.kff.org/womens-health-policy/issue-brief/proposed-changes-to-title-x-implications-for-women-and-family-planning-providers/>

<sup>2</sup> Wen, L. (2018, July 6). Trump’s family planning dystopia. Retrieved January 17, 2019, from <https://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0708-wen-dystopia-20180703-story.html>

<sup>3</sup> Wickline v State of California (1986). Retrieved January 17, 2019, from <https://law.justia.com/cases/california/court-of-appeal/3d/192/1630.html>



the case of religious or moral opposition.<sup>4</sup> By sanctioning religious or moral objections, the Trump Administration is potentially sanctioning discrimination against patients, especially those in our most vulnerable communities. LGBTQ individuals in Baltimore and around Maryland could be denied care for important health services simply because of their sexual orientation. A 2015 survey found that 29% of transgender individuals nationally had reported an incident where a provider refused to see them because of their gender identity.<sup>5</sup> Another study found that 18.4% of LGBTQ individuals avoided doctor's offices because of discrimination.<sup>6</sup> This type of routine discrimination severely limits healthcare utilization, deepening already significant health disparities. Compared to heterosexual individuals, LGBTQ individuals have higher rates of chronic illness, sexually transmitted diseases, and behavioral health conditions.<sup>7</sup>

The "conscience clause" provides cover and relief for individuals who deny medically necessary care to LGBTQ persons, underscoring the need for state protections such as HB 255. The rule could potentially deny access to emergency abortion care, limit access to comprehensive family planning counseling and services, and exacerbate health inequities.<sup>8</sup> In 2014, 28,140 abortions were provided in Maryland.<sup>9</sup> Without the protections outlined in HB 255, the thousands of women in Baltimore City seeking abortions could be denied the counseling and care they need. Altogether, the "conscience clause" rule's impact on healthcare access for vulnerable communities in our city amounts to a significant assault to public health.

## **Public Charge**

The "public charge" rule specifically targets access to services for both documented and undocumented immigrant communities. The rule would make green card access more difficult for any immigrant who has used public assistance services

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<sup>4</sup> Sonfield, A. (2018, March 21). How The Administration's Proposed 'Conscience' Rule Undermines Reproductive

Health And Patient Care. Retrieved January 17, 2019. from <https://www.healthaffairs.org/doi/10.1377/hblog20180316.871660/full/>

<sup>5</sup> Mirza, S., Rooney, C. (2018, January 18). Discrimination Prevents LGBTQ People from Accessing Health Care. Retrieved January 17, 2019. from <https://www.americanprogress.org/issues/lgbt/news/2018/01/18/445130/discrimination-prevents-lgbtq-people-accessing-health-care/>

<sup>6</sup> Singh, S., Durso, L. (2017, May 2). Widespread Discrimination Continues to Shape LGBT People's Lives in Both Subtle and Significant Ways. Retrieved January 17, 2019. from <https://www.americanprogress.org/issues/lgbt/news/2017/05/02/429529/widespread-discrimination-continues-shape-lgbt-peoples-lives-subtle-significant-ways/>

<sup>7</sup> Kates, J. et al. (2018, May). Health and Access to Care and Coverage for Lesbian, Gay, Bisexual, and Transgender Individuals in the U.S. Retrieved January 17, 2019. from <http://files.kff.org/attachment/Issue-Brief-Health-and-Access-to-Care-and-Coverage-for-LGBT-Individuals-in-the-US>

<sup>8</sup> Sonfield, A. (2018, March 21). How The Administration's Proposed 'Conscience' Rule Undermines Reproductive Health And Patient Care. Retrieved January 17, 2019. from <https://www.healthaffairs.org/doi/10.1377/hblog20180316.871660/full/>

<sup>9</sup> Jones, RK., Jerman J. (2017). Abortion incidence and service availability in the United States, 2014, *Perspectives on Sexual and Reproductive Health*, 2017, 49(1), doi:10.1363/psrh.12015.



such as Medicaid and Supplemental Nutrition Assistance Program (“SNAP”). A Kaiser Family Foundation report found that 94% of noncitizens nationally have at least one factor that could potentially count against them in a public charge determination.<sup>10</sup> Consequently, the report predicted that the rule has the potential to cause 15% to 35% of households with a noncitizen to disenroll from Medicaid and CHIP, meaning anywhere from 2.1 to 4.9 million Medicaid/CHIP enrollees will be left without coverage.<sup>11</sup>

In Baltimore City, immigrant families avail themselves of many BCHD-run programs and services including vision screenings and treatments in schools, school-based health centers and suites, family planning and sexually-transmitted diseases and infections (“STDs/STIs”) services, dental clinics, meals for seniors, and home visits for infant care, all of which could be construed as “public benefits.” Many children from immigrant families also rely on school-based health centers for routine vaccinations for diseases like measles, mumps, and various STDS. By avoiding these vital programs, many immigrant parents could be jeopardizing their family’s well-being as well as their own livelihoods.

The rule’s potential impact on immigration status may also dampen future enrollment of immigrants in public assistance, thereby limiting use of routine preventative and primary healthcare.<sup>12</sup> Protections from HB 255 would prohibit discrimination of healthcare providers based on citizenship status, allaying fears.

It is our belief that 2019’s Patient Bill of Rights (HB 145/SB 301) provided great relief to the groups discussed above, and that HB 255 could help bolster its provisions. Whereas the former requires reporting to the Maryland Department of Health’s Office of Healthcare Quality (“OHQ”), the latter would create a cause of action enforceable by the Maryland Commission on Civil Rights (“CCR”), further empowering individuals who have suffered discrimination. Moreover, HB 255 expands the amount of protected classes to effectively mirror the Patient Bill of Rights, thereby allowing for parallel enforcement by OHQ and CCR.

Altogether, HB 255 proactively codifies patient protections to ensure that no matter who you are, who you love, or what type of care you seek; your access to quality, affordable healthcare is never compromised. In Baltimore, this legislation will help insulate our city’s vulnerable communities from politically motivated attacks on their health. It would help slow disenrollment from public benefits, promote continued healthcare utilization, and defend access to reproductive health services. HB 255 is a necessary step towards safeguarding healthcare as a fundamental and apolitical human right for Marylanders.

We respectfully request a **favorable** report on House Bill 255.

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<sup>10</sup> Artiga, S., Garfield, R., Damico, A. (2018, October). Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid. Retrieved January 25<sup>th</sup>, 2019. <http://files.kff.org/attachment/Issue-Brief-Estimated-Impacts-of-the-Proposed-Public-Charge-Rule-on-Immigrants-and-Medicaid>

<sup>11</sup> Ibid.

<sup>12</sup> Parnet, W. (2018, September 27). The Health Impact Of The Proposed Public Charge Rules. Retrieved January 17, 2019. from <https://www.healthaffairs.org/doi/10.1377/hblog20180927.100295/full/>