

February 10, 2023

The Honorable Joseline A. Pena-Melnyk
House Health and Government Operations Committee
Room 241
House Office Building
Annapolis, Maryland 21401

Testimony of the National Center for Transgender Equality Action Fund

In SUPPORT WITH AMENDMENTS of

HB0283: Trans Health Equity Act

To the Honorable Chair Pena-Melnick, Vice Chair Kelly, and esteemed members of the Health and Government Operations Committee:

The National Center for Transgender Equality Action Fund (“NCTE Action Fund”) is a 501(c)(4) non-profit political advocacy organization affiliated with the National Center for Transgender Equality (“NCTE”). Founded in 2003, the NCTE works to improve the lives of the nearly two million transgender people in the United States and their families through sound public policy, public education, and groundbreaking research. NCTE has worked with countless health and human service providers as well as local, state, and federal agencies on policies to ensure equal access to vital health and human services. The NCTE Action Fund, launched in 2017, builds power for transgender people, our families, and our allies – to make our collective voice heard – so that together, we can change the landscape in this country to fully support transgender equality.

The NCTE Action Fund writes today in support of House Bill 283, which would expand access to medically-necessary, life-saving care for transgender Marylanders who receive healthcare through the state’s Medicaid system. Due to recent attacks on providers of gender-affirming care across the country, however, we request that the reporting requirements in part D of the bill be amended so as to eliminate the risk that the well-intentioned report could be used to target care providers.

While Maryland is in the majority of states whose Medicaid programs explicitly include coverage for transition-related healthcare, it is fast becoming an outlier in the limitations that state places on just what transgender Marylanders on Medicaid are able to get covered. Under the March 2016 Managed Care Organizations Transmittal No. 110, which established coverage requirements for transition-related surgeries under Maryland’s Medicaid program, over two dozen procedures or care related to procedures were excluded from coverage, including hair removal (a common prerequisite for a variety of surgical procedures), voice therapy, and even many surgical revisions or multi-stage surgeries. For example, coverage of multi-stage phalloplasties is expressly prohibited under the guidelines, ignoring both medical realities and the needs of specific patients.

While most state Medicaid regulations do not expressly outline the specific transition-related procedures that are excluded from coverage, a number of states do specifically provide that coverage will be provided for care currently excluded by Maryland, including California (hair removal, facial gender affirmation surgery), Colorado (hair removal, revision surgeries), Connecticut (hair removal, facial gender affirmation surgery, revision surgery), Hawaii (tracheal shave, hair removal, facial gender affirmation surgery, vocal therapy, vocal surgery), Massachusetts (hair removal, facial gender affirmation surgery), Oregon (hair removal, facial gender affirmation surgery, revision surgery), Washington (hair removal, facial gender affirmation surgery, revision surgery), and the District of Columbia (tracheal shave, facial gender affirmation surgery). While Maryland’s

MCO Transmittal may have seemed a reasonable compromise when it was issued in March 2016, the state is fast falling behind our peer states in this area.

MCO Transmittal 110 also likely violates federal non-discrimination laws under Section 1557 of the Affordable Care Act, which prohibits discrimination on the basis of sex (including sexual orientation and transgender status) in programs receiving federal funds for healthcare. With additional regulations enforcing Section 1557 expected to go into force this year, Maryland's Medicaid system is at risk of an investigation or even enforcement action by the federal government if it does not bring coverage for transition-related care into line with federal requirements.

Even were Maryland's Medicaid policy not in contravention of federal law and out of step with our sibling states, the ongoing national moral panic around transition-related healthcare makes legislative all the more critical. Across the country, we have seen legislative and administrative attacks on transition-related care, whether in the form of stripping insurance coverage for care, threatening the medical licenses of physicians who provide care, or creating criminal penalties for medical providers or even family members who facilitate access to care. In this atmosphere, it is more crucial than ever for Maryland to encode access to transition-related care for transgender Marylanders, both to ensure that such care is not casually stripped away in the future and to send a message to transgender people across the country that they are deserving of human dignity.

But while the National Center for Transgender Equality Action Fund strongly supports House Bill 283, we believe that amendments are necessary to part D of the bill, which would require the Department of Health to compile and publish an annual report listing the names and locations of physicians and clinics providing transition-related care. While the initial intent of this reporting requirement – to ensure transgender Marylanders knew where they could seek care – was laudatory, political realities over the year since the prior version of HB283 was first introduced have made clear the report required under part D would likely put medical providers at risk of harassment, violence, and potentially death. Since August 2022, we have seen targeted attacks on providers of transition-related care, including Boston Children's Hospital, Vanderbilt University Medical Center, the Children's Hospital of Pittsburgh, the University of Wisconsin Health, and at least 20 other hospitals across multiple states. Given this reality, the NCTE Action Fund asks that part D of the bill be either significantly amended or removed.

I thank you for your time and urge a favorable report with amendment of House Bill 283.

Sincerely,

C.P. Hoffman
Senior Policy Counsel
National Center for Transgender Equality Action Fund
cphoffman@transequality.org