

SENATE BILL 738

D5, J3, J2

0lr2456
CF 0lr3236

By: **Senator Feldman**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Providers and Health Benefit Plans – Discrimination in Provision**
3 **of Services**

4 FOR the purpose of altering the actions with regard to which hospitals and related
5 institutions are prohibited from discriminating against individuals on certain bases;
6 altering the characteristics of an individual on the basis of which hospitals and
7 related institutions are prohibited from discriminating against the individual in
8 certain actions; providing that certain provisions of this Act do not prohibit certain
9 persons from refusing, withholding from, or denying any person services for certain
10 reasons except under certain circumstances; prohibiting certain persons licensed or
11 regulated by certain units in the Maryland Department of Health from refusing,
12 withholding from, or denying any person certain services on certain bases;
13 prohibiting certain persons that have a certificate of authority from the Maryland
14 Insurance Administration from refusing, withholding from, or denying any person
15 certain services on certain bases; stating the policy of the State; defining certain
16 terms; altering a certain definition; and generally relating to prohibiting
17 discrimination by health care providers and persons providing health benefit plans.

18 BY repealing and reenacting, with amendments,
19 Article – Health – General
20 Section 19–355
21 Annotated Code of Maryland
22 (2019 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article – State Government
25 Section 20–101
26 Annotated Code of Maryland
27 (2014 Replacement Volume and 2019 Supplement)

28 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Government

Section 20–4A–01 through 20–4A–03 to be under the new subtitle “Subtitle 4A. Discrimination by Persons Licensed or Regulated by Maryland Department of Health or Maryland Insurance Administration”
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

19–355.

(a) **IN THIS SECTION, “GENDER IDENTITY” AND “SEXUAL ORIENTATION”
HAVE THE MEANINGS STATED IN § 20–101 OF THE STATE GOVERNMENT ARTICLE.**

(B) A hospital or related institution may not **REFUSE, WITHHOLD FROM, OR
DENY TO ANY INDIVIDUAL MEDICAL SERVICES OR OTHERWISE** discriminate [in
providing personal care for an] **AGAINST ANY individual WITH RESPECT TO THE
INDIVIDUAL’S MEDICAL CARE** because of the race, color, **RELIGION, SEX, AGE, [or]**
national origin, **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY,
GENETIC INFORMATION, OR DISABILITY** of the individual.

[(b)] (C) The Commission on Civil Rights shall enforce this section as provided
in Title 20 of the State Government Article.

Article – State Government

20–101.

(a) In Subtitles 1 through 11 of this title the following words have the meanings
indicated.

(b) “Commission” means the Commission on Civil Rights.

(c) “Complainant” means a person that files a complaint alleging a discriminatory
act under this title.

(d) “Discriminatory act” means an act prohibited under:

(1) Subtitle 3 of this title (Discrimination in Places of Public
Accommodation);

(2) Subtitle 4 of this title (Discrimination by Persons Licensed or Regulated
by Maryland Department of Labor);

(3) **SUBTITLE 4A OF THIS TITLE (DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY MARYLAND DEPARTMENT OF HEALTH OR MARYLAND INSURANCE ADMINISTRATION);**

(4) Subtitle 5 of this title (Discrimination in Leasing of Commercial Property);

~~[(4)]~~ (5) Subtitle 6 of this title (Discrimination in Employment);

~~[(5)]~~ (6) Subtitle 7 of this title (Discrimination in Housing); or

~~[(6)]~~ (7) Subtitle 8 of this title (Aiding, Abetting, or Attempting Discriminatory Act; Obstructing Compliance).

(e) “Gender identity” means the gender–related identity, appearance, expression, or behavior of a person, regardless of the person’s assigned sex at birth, which may be demonstrated by:

(1) consistent and uniform assertion of the person’s gender identity; or

(2) any other evidence that the gender identity is sincerely held as part of the person’s core identity.

(f) (1) “Respondent” means a person accused in a complaint of a discriminatory act.

(2) “Respondent” includes a person identified during an investigation of a complaint and joined as an additional or substitute respondent.

(g) “Sexual orientation” means the identification of an individual as to male or female homosexuality, heterosexuality, or bisexuality.

**SUBTITLE 4A. DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY
MARYLAND DEPARTMENT OF HEALTH OR MARYLAND INSURANCE
ADMINISTRATION.**

20–4A–01.

IT IS THE POLICY OF THE STATE TO:

(1) **PROVIDE AFFORDABLE HEALTH CARE THROUGHOUT THE STATE TO ALL REGARDLESS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY; AND**

(2) PROHIBIT DISCRIMINATION WITH RESPECT TO THE PROVISION OF HEALTH CARE BY ANY PERSON, IN ORDER TO PROTECT AND ENSURE THE PEACE, HEALTH, SAFETY, PROSPERITY, AND GENERAL WELFARE OF ALL.

20-4A-02.

(A) THIS SECTION DOES NOT PROHIBIT A PERSON THAT IS LICENSED OR OTHERWISE REGULATED BY THE MARYLAND DEPARTMENT OF HEALTH FROM REFUSING, WITHHOLDING FROM, OR DENYING ANY PERSON SERVICES FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS IMPOSED BY THE LICENSED OR REGULATED PERSON, UNLESS THE REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.

(B) A PERSON THAT IS LICENSED OR OTHERWISE REGULATED BY A UNIT IN THE MARYLAND DEPARTMENT OF HEALTH DESCRIBED UNDER § 2-106 OF THE HEALTH – GENERAL ARTICLE MAY NOT REFUSE, WITHHOLD FROM, OR DENY ANY PERSON ANY SERVICES OF THE LICENSED OR REGULATED PERSON OR OTHERWISE DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON’S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.

20-4A-03.

(A) THIS SECTION DOES NOT PROHIBIT A PERSON THAT IS REGULATED BY THE MARYLAND INSURANCE ADMINISTRATION FROM REFUSING, WITHHOLDING FROM, OR DENYING ANY PERSON SERVICES FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS IMPOSED BY THE REGULATED PERSON, UNLESS THE REFUSAL, WITHHOLDING, OR DENIAL IS BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.

(B) A PERSON, INCLUDING A HEALTH MAINTENANCE ORGANIZATION, THAT PROVIDES HEALTH BENEFIT PLANS AND HAS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE ADMINISTRATION MAY NOT REFUSE, WITHHOLD FROM, OR DENY ANY PERSON ANY SERVICES OF THE PERSON OR OTHERWISE DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON’S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR DISABILITY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2020.