



The State of Maryland

Executive Department

EXECUTIVE ORDER

01.01.2023.08

Protecting the Right to Seek Gender-Affirming Treatment in Maryland

- WHEREAS, Maryland's Constitution and statutes are rooted in a fundamental belief in the blessings of individual liberty and equal rights for all Maryland residents; and
- WHEREAS, Maryland residents who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or who otherwise do not identify as heterosexual or cisgender (LGBTQIA+) have historically faced discrimination; and
- WHEREAS, In Maryland, we reject discrimination in all forms, value our LGBTQIA+ neighbors and over 94,000 transgender or non-binary residents, and will safeguard their rights given our shared belief that LGBTQIA+ individuals are entitled to respect, compassion, and the blessings of individual liberty that are our common heritage; and
- WHEREAS, Discrimination in the provision of health care has been persistent for members of the transgender community in Maryland and around the nation; and
- WHEREAS, While other states have deprived residents of access to gender-affirming treatment, and in some cases, criminalized this care, such treatment will be protected in Maryland, as the actions of these other states pose a threat to the health of LGBTQIA+ individuals by preventing them from affirming their gender identities through safe and medically necessary treatments; and
- WHEREAS, In 1972, the State of Maryland amended the Declaration of Rights in its Constitution to include Article 46, ensuring that equality of rights under the law shall not be abridged or denied because of sex, which includes protection from discrimination on the basis of sexual orientation and gender identity; and

- WHEREAS, In 2001, the State of Maryland prohibited discrimination based on sexual orientation with regard to public accommodations, housing, and employment, making existing remedies and procedures regarding discrimination applicable to discrimination based on sexual orientation; and
- WHEREAS, In 2012, the State of Maryland became the first state in the nation to establish by vote of the state legislature that same sex couples are entitled to the same legal and civil benefits of marriage as heterosexual couples, and later that year Maryland voters approved the measure in a statewide referendum; and
- WHEREAS, In 2014, the State of Maryland prohibited discrimination based on gender identity and expression with regard to public accommodations, housing, and employment in the Fairness for All Marylanders Act of 2014; and
- WHEREAS, In 2018, the State of Maryland prohibited mental health or childcare practitioners from engaging in the harmful practice of conversion therapy with individuals who are minors, and barred the use of state funds for conducting or providing health coverage for conversion therapy, or providing a grant to any organization that conducts or provides insurance for conversion therapy; and
- WHEREAS, In 2019, the State of Maryland amended its health code to ensure minors may consent to medical treatment without the consent of a parent or guardian and have the same capacity as an adult to consent to medical treatment, if in the judgment of the attending physician, the life or health of the minor would be adversely affected by delaying treatment to seek consent; and, Maryland law similarly protects the rights of minors to exercise their bodily autonomy and consent to treatment or advice for certain health related conditions including pregnancy, contraception, and HIV; and
- WHEREAS, In 2021, the State of Maryland established the LGBTQ Affairs Commission in the Governor’s Office of Community Initiatives, which in April of 2023 was renamed the LGBTQIA+ Affairs Commission to reflect Marylanders who identify as questioning, intersex, asexual, and additional identities and charged the Commission with assessing the challenges the LGBTQIA+ community faces, collecting data across state agencies on the implementation of LGBTQ-inclusive policies, and assessing complaints alleging discrimination based on sexual orientation or gender identity; and
- WHEREAS, In 2022, the State of Maryland restored LGBTQIA+ veterans with a less-than-honorable discharge to a status of “honorably discharged” for the purpose of state benefits, rights, and privileges if they were solely

discharged due to their sexual orientation or gender identity or based on a statement or consensual act of the individual being discharged related to the individual's sexual orientation or gender identity; and

WHEREAS, On March 31, 2023, I proudly proclaimed March 31 as the International Transgender Day of Visibility in Maryland, being the first governor in Maryland history to formally commemorate the day. This proclamation celebrates the accomplishments of transgender Marylanders while continuing to raise awareness to achieve trans justice; and

WHEREAS, On May 3, 2023, I proudly signed Senate Bill 460 and House Bill 283, The Trans Health Equity Act, that expands coverage for gender-affirming treatments for transgender Marylanders; and

WHEREAS, As the State of Maryland continues its efforts to make progress in trans justice and equal rights for all Marylanders in the LGBTQIA+ community, it is imperative that we are committed to protecting access to gender-affirming treatment by ensuring that no one who lawfully provides, assists, seeks, or obtains such treatment should be subjected to legal liability or professional sanctions; and

WHEREAS, Nothing in this Executive Order should be constructed to change Maryland Law or require coverage of services that are not considered medically necessary. This Executive Order is to ensure that individuals in Maryland are afforded the protections and rights provided under Maryland law;

NOW, THEREFORE, I, WES MOORE, GOVERNOR OF THE STATE OF MARYLAND, BY THE VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Definitions.

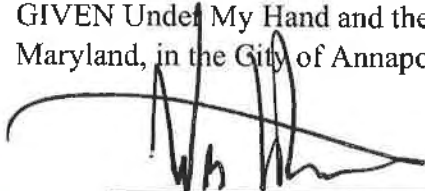
1. "Gender-Affirming Treatment" means any medically necessary treatment consistent with current clinical standards of care prescribed by a licensed health care provider for the treatment of a condition related to the individual's gender identity.
2. "State Agency" means a department, agency, commission, board, council, or other body of state government subject to the direction and supervision of the Governor.

B. All state agencies shall, to the fullest extent within their authority, take whatever action is necessary and coordinate to protect people or entities in Maryland providing, receiving, assisting in providing or receiving, seeking, or traveling to obtain gender-affirming treatment.

- C. Except as required by court order issued by a Maryland or federal court, or as required by Maryland or federal law, no state agency shall provide information, including patient medical records, patient-level data, or related billing information, or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity solely for:
1. The provision of, securing of, receipt of, inquiry into, or responding to any inquiry concerning gender-affirming treatment that is permitted under the laws of this State; or
 2. The provision of any assistance to any individual or entity that relates to the provision of, securing of, receipt of, inquiry into, or responding to any inquiry concerning gender-affirming treatment that is permitted under the laws of this State; or
 3. Traveling to Maryland to obtain, provide, receive, or inquire into gender-affirming treatment that is permitted under the laws of this State.
- D. Except as required by a court order issued by a Maryland or federal court, or as required by Maryland or federal law, no state agency shall comply with a subpoena issued by another state, knowing that the subpoena seeks information solely because an individual or entity provided, received, assisted in providing or receiving, sought, inquired or responded to an inquiry about, or traveled to Maryland to obtain gender-affirming treatment that is permitted under the laws of this State for themselves or a child for whom they are the parent or legal guardian.
- E. Pursuant to the discretion afforded me under § 9-106(a) of the Criminal Procedure Article of the Maryland Code, I shall refuse to surrender, on demand of the executive authority of any other state, any person who: (i) is found in this State; (ii) was not present in the demanding state at the time of the commission of the alleged offense and has not fled therefrom; and (iii) is charged with a criminal violation of a law of another state where the violation alleged involves the provision of, assistance with, securing of, or receipt of gender-affirming treatment that is permitted under the laws of this State.
- F. Except when in conflict with any State or federal laws, a health occupations board shall not refuse to admit a person to an examination and shall not revoke, suspend, discipline, take an adverse action against, or refuse to issue or renew a license, certification, or other authorization to practice for any health care practitioner in whole or in part because of the provision of, authorization of, participation in, referral for, or assistance with gender-affirming treatment for a person who resides in a jurisdiction where the provision, authorization, participation, referral, or assistance is illegal, if the provision, authorization, participation, referral, or assistance would not be a basis for refusing to admit a person to an examination or for revoking, suspending, disciplining, taking an adverse action against, or refusing to issue or renew a license, certification, or other authorization to practice in this State.

G. This Executive Order shall not be construed to preclude a health occupations board from investigating an alleged violation of the applicable practice act by a Maryland-licensed practitioner that occurs in Maryland or from taking appropriate action against that practitioner.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 5th Day of June 2023.



Wes Moore
Governor



ATTEST:



Susan C. Lee
Secretary of State