

Policies to Address Weight Stigma and Discrimination in Massachusetts

WHAT IS THE PROBLEM?

A nail salon implements a surcharge on pedicures for “overweight” customers.¹

A hiring manager rejects a qualified candidate because of her size.²

A “reality TV” competition subjects contestants to abusive language and dangerous conditions in a quest to lose weight and win money.³

These are all manifestations of weight stigma, the systemic social devaluation and marginalization of people with bodies deemed “too large.” ***Weight stigma is widespread and results in discrimination*** from landlords, lenders, employers, and service providers;^{4,5} interpersonal harassment from loved ones;⁶ and structural exclusion when public spaces are built to be inaccessible to larger bodies, as with the ever-shrinking size of commercial airline seats.⁷ This makes it ***both a social justice issue and a public health threat.***

Weight stigma is a known risk factor for eating disorders in people of all sizes.⁸ In fact, internalized weight stigma, expressed as an intense fear of becoming fat, is one of the criteria used to diagnose anorexia nervosa.⁹ The more a person takes negative messages about fat bodies to heart, the likelier they are to develop an eating disorder, regardless of how much that person weighs.^{10,11} In addition to eating disorders, ***weight stigma is associated with risk for diabetes*** and other poor health outcomes. Some researchers have suggested that weight stigma accounts for a majority of the health risks associated with high BMI.^{12,13}

And unlike other forms of social bias, weight stigma is not getting better with time. A January 2019 study from Project Implicit found that implicit weight bias—the attitudes people subconsciously hold about others based on body size—intensified from 2007 to 2016.¹⁴ ***Policy intervention is urgently needed to raise awareness and identify feasible solutions.***

ADDRESSING WEIGHT DISCRIMINATION THROUGH CIVIL RIGHTS LEGISLATION

One option for Massachusetts lawmakers would be simply adding height and weight as protected characteristics under the Commonwealth’s existing civil rights laws.

Civil rights laws to prohibit weight discrimination in the workplace have strong public support in national surveys, with 78% of adults indicating approval in a study conducted in 2014-2015.¹⁵ For many years, Rep. Byron Rushing, who represented the Ninth Suffolk district in the Massachusetts House of Representatives from 1982 through 2018, took this approach. For more than a decade, Rep. Rushing introduced a bill that would incorporate discrimination on the basis of height and weight into the Commonwealth’s existing anti-discrimination laws.¹⁶ This legislation would make it illegal to discriminate on the basis of weight in employment, housing, and public accommodations. However, despite anticipated public support and Rep. Rushing’s

repeated success in soliciting expert testimony from clinicians, researchers, and advocates, the bill has so far been referred for study each time it was introduced.

In Michigan, where an analogous anti-discrimination provision was added to the state's Elliot-Larsen Civil Rights Act in 1975, people with large bodies have not been able to use the law effectively. In her 2008 book *Fat Rights*, legal scholar Anna Kirkland could find only 14 cases that had used the height and weight provision of the law during the 33 years it had by then been in effect.¹⁷ One case she describes illustrates the ways anti-discrimination laws can have unintended consequences: Kirkland describes a case of a substitute school bus driver, hired in 1996, who found during training that the space between the seat and steering wheel was too small. She was subsequently dismissed from the job. While the bus was clearly constructed in a way that excluded larger bodies, the judge ruled that because the discrimination was not overtly malicious, it was not prohibited under the Elliott-Larsen Act. *This case created a precedent that upholds rather than prohibits structural discrimination against larger bodies in employment settings*, leaving Michiganders of size potentially *more* — not less — vulnerable to employment discrimination.

Without a strong network of fat activist organizations, attorneys and judges have lacked the language and reasoning to address structural weight discrimination in its most concrete, tangible forms. While a comprehensive anti-discrimination law is an ideal upstream public health intervention, its effectiveness is only as strong as the affected community's ability to mobilize around it. *Policymakers and advocates may wish to consider an incremental strategy that focuses on building political power* through targeted policy changes that address weight discrimination in specific sectors or areas. This would help to raise awareness and create conditions more favorable to passing and implementing comprehensive anti-discrimination legislation.

ANOTHER TACTIC: STARTING WITH WEIGHT STIGMA IN MEDICINE

While weight stigma and discrimination have been found across many domains, including the workplace, housing, and educational settings,¹⁸ health-related justifications underpin biased attitudes and discriminatory behavior in many contexts.¹⁹ Furthermore, weight discrimination is a common experience for people in large bodies seeking health care. Many clinicians hold inaccurate, biased beliefs about weight controllability and the efficacy of weight-related interventions,²⁰ and these beliefs may be reinforced during clinical education.²¹ *Weight stigma reduces quality of care for people with high BMI.*²² *Studies report that patients have been denied access to care* contingent on losing weight, leading to the adoption of dangerous weight-loss practices.²³ Recent news reports have featured people with high BMI whose serious illnesses were undiagnosed for years because clinicians either advised they lose weight rather than perform a thorough medical exam, or praised their unintentional weight loss rather than treating it as an alarming symptom—in some cases leading to preventable early deaths.^{24,25} These discriminatory experiences can drive people in large bodies to avoid health care settings altogether, putting them at further risk.²⁶

Mandating clinician training in weight bias has been suggested as a policy intervention for addressing medical weight stigma. A recent study of women designated “overweight” or “obese” found high support for policy interventions that address medical weight stigma, with more than 94% of respondents assigning high importance to “implementing comprehensive education about obesity in medical schools” and “training for healthcare providers on providing respectful, compassionate care to patients with obesity.”²⁷

Policies enacted recently to improve clinician awareness of LGBTQ issues in health care settings may provide models for Massachusetts lawmakers who wish to tackle weight stigma in medicine. In Washington, D.C., policies enacted within the last four years mandate that individual clinicians participate in training and regulate how long-term care facilities must protect their LGBTQ residents from harassment and mistreatment by staff and fellow residents. In Massachusetts, the Executive Office of Elder Affairs was directed to develop a comprehensive LGBT awareness training for long-term care facilities.

Policy Example 1: Regulating Clinician Licensure

In Washington, D.C., the LGBTQ Cultural Competency Continuing Education Act of 2015²⁸ mandates LGBTQ cultural competency training for all licensed healthcare professionals. The law mandates that continuing education requirements for licenses, registrations, and certifications must include two hours spent “on cultural competency or specialized clinical training focusing on patients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity (“LGBTQ”).” Follow-up legislation in the District included an amendment to mandate pharmacists and pharmacy technicians also receive LGBTQ cultural competency training, bringing the number of health professions included to 48.²⁹ Online learning modules that meet the law’s requirements are available from the Fenway Institute’s National LGBT Health Education Center.³⁰ While weight stigma education modules are increasingly available, most are not accredited to offer continuing education credits. Policymakers taking this approach might want to consider writing the law to go into effect in 2-3 years to create time for advocates and educators to meet this need.

Policy Example 2: Regulating Facility Behavior

In October of 2018, a bill was introduced in Washington, D.C. to make LGBTQ elders eligible for services under the Older Americans Act, establishing a bill of rights for LGBTQ people in long-term care facilities, and mandating cultural competency training for workers in long-term care settings. California also recently enacted a long-term care bill of rights for LGBTQ patients that ensures that long-term care facilities must: use patients’ preferred names and appropriate pronouns; post a specific anti-discrimination notice; and cease the practices of denying admission to, transferring, and evicting residents based on the anti-LGBTQ attitudes of other residents.³¹ This implicitly puts the onus on facilities to not only train their clinicians and support staff, but also to develop policies and systems that protect their LGBTQ residents to facilitate compliance. However, enforcement mechanisms would need to be clarified and a comparable bill of rights for patients in large bodies would need to be developed.

Policy Example 3: Developing Training Through State Government

Here in Massachusetts, An Act Relative to LGBT Awareness Training for Aging Services Providers was signed in June 2018.³² This law takes a slightly different approach, by designating an executive department—in this case, the Executive Office of Elder Affairs—to develop a training program to provide to the organizations with whom they contract, to whom they provide funding, or whom they certify. All providers of long-term care who receive funding from MassHealth must also receive this LGBT awareness training. This framework could be used to mandate the development of a comprehensive training on bias in medicine, including not only weight bias but also racism, sexism, ageism, homophobia, and transphobia, through the Department of Public Health.

CONCLUSIONS AND CURRENT EFFORTS IN MASSACHUSETTS

Weight stigma is an urgent public health threat that shows no signs of abating. Weight stigma is implicated in the development of eating disorders, in the health risks associated with living in a larger body, and in the preventable, early deaths of countless misdiagnosed and undertreated victims of medical weight discrimination. The pervasiveness of weight stigma and discrimination may seem daunting, but lawmakers have no shortage of viable policy options to champion. In the 191st General Court, Rep. Tram Nguyen (D-18th Essex) and Sen. Becca Rausch (D-Norfolk, Bristol and Middlesex) have introduced H.3413 and S.1012, **An Act making discrimination on the basis of height and weight unlawful**. This successor bill to Rep. Rushing's efforts, though it may not be a "magic bullet" for addressing weight stigma, provides important protections for people of size. STRIPED supports Massachusetts legislators' efforts to identify and enact policies to curb weight stigma and discrimination.

-Policy brief prepared by Monica Kriete, MPH (January 2019)

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