

Chapter 56

(House Bill 937)

AN ACT concerning

Abortion Care Access Act

FOR the purpose of establishing the Abortion Clinical Care Training Program in the Maryland Department of Health; establishing the Abortion Care Clinical Training Program Fund; requiring interest earnings of the Fund to be credited to the Fund; establishing and altering certain requirements regarding abortion services, including a requirement related to who may perform abortions in the State; establishing certain requirements regarding abortion care services, including provision and coverage requirements on the Maryland Medical Assistance Program and certain insurers, nonprofit health service plans, and health maintenance organizations; authorizing certain organizations to obtain from certain entities an exclusion from certain abortion care coverage and information requirements under certain circumstances; authorizing the Maryland Insurance Commissioner to grant a certain exemption to certain abortion care service requirements under certain circumstances; requiring the Maryland Health Benefit Exchange to adopt regulations to provide a certain subsidy to cover the cost of insurance premiums for certain young adults; requiring the Exchange to study extending last dollar coverage to certain enrollees; and generally relating to abortion care and coverage of health care services under the Maryland Medical Assistance Program and health benefit plans.

BY adding to

Article – Health – General

Section 13–4401 through 13–4407 to be under the new subtitle “Subtitle 44. Abortion Care Clinical Training Program”; and 15–103(a)(2)(xviii)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,Article – Health – GeneralSection 15–103(a)(1)Annotated Code of Maryland(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 15–103(a)(2)(xvi) and (xvii), 20–103, and 20–207 through 20–209

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

BY adding to

Article – Insurance
Section 15–857
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 31–122
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(ii)144. and 145.
Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to

Article – State Finance and Procurement
Section 6–226(a)(2)(ii)146.
Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – Health – General

SUBTITLE 44. ABORTION CARE CLINICAL TRAINING PROGRAM.

13–4401.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “FUND” MEANS THE ABORTION CARE CLINICAL TRAINING PROGRAM FUND.

(C) "PROGRAM" MEANS THE ABORTION CARE CLINICAL TRAINING PROGRAM.

13-4402.

THERE IS AN ABORTION CARE CLINICAL TRAINING PROGRAM IN THE DEPARTMENT.

13-4403.

THE PURPOSE OF THE PROGRAM IS TO PROTECT ACCESS TO ABORTION CARE BY ENSURING THAT THERE ARE A SUFFICIENT NUMBER OF HEALTH PROFESSIONALS TO PROVIDE ABORTION CARE.

13-4404.

(A) (1) THE DEPARTMENT SHALL CONTRACT WITH A COORDINATING ORGANIZATION TO ADMINISTER THE PROGRAM.

(2) THE DEPARTMENT SHALL USE FUNDS APPROPRIATED IN THE BUDGET FOR THE PROGRAM TO CONTRACT WITH THE COORDINATING ORGANIZATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(B) THE COORDINATING ORGANIZATION SHALL:

(1) HAVE DEMONSTRATED EXPERIENCE IN COORDINATING ABORTION CARE TRAINING PROGRAMS AT COMMUNITY-BASED AND HOSPITAL-BASED PROVIDER SITES;

(2) BE A NONPROFIT ENTITY;

(3) BE IN GOOD STANDING IN ANY STATE OR JURISDICTION IN WHICH THE ORGANIZATION IS REGISTERED OR INCORPORATED;

(4) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT ON THE PERFORMANCE OF THE PROGRAM;

(5) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE DEPARTMENT IF THE REQUIREMENTS ARE NOT INCONSISTENT WITH TITLE 20, SUBTITLE 2 OF THE HEALTH - GENERAL ARTICLE; AND

(6) PERFORM THE FOLLOWING FUNCTIONS:

(I) ADMINISTER GRANTS TO DEVELOP AND SUSTAIN ABORTION CARE TRAINING PROGRAMS AT A MINIMUM OF TWO COMMUNITY-BASED PROVIDER SITES;

(II) ADMINISTER GRANTS IF FUNDING IS AVAILABLE TO:

1. OTHER COMMUNITY-BASED SITES;

2. HOSPITAL-BASED PROVIDER SITES;

3. CONTINUING EDUCATION PROGRAMS FOR QUALIFIED PROVIDERS THROUGH PROFESSIONAL ASSOCIATIONS OR OTHER CLINICAL EDUCATION PROGRAMS; AND

4. ESTABLISH TRAINING PROGRAM REQUIREMENTS THAT:

A. ARE CONSISTENT WITH EVIDENCE-BASED TRAINING STANDARDS; ~~AND~~

B. COMPLY WITH ANY APPLICABLE STATE LAW AND REGULATIONS; AND

C. FOCUS ON THE PROVISION OF CULTURALLY CONGRUENT CARE AND INCLUDE IMPLICIT BIAS TRAINING;

(III) SUPPORT ABORTION CARE CLINICAL TRAINING TO QUALIFIED PROVIDERS AS DEFINED IN § 20-103 OF THIS ARTICLE AND TO THE CLINICAL CARE TEAMS OF THE QUALIFIED PROVIDERS TO:

1. EXPAND THE NUMBER OF HEALTH CARE PROFESSIONALS WITH ABORTION CARE TRAINING; AND

2. INCREASE THE RACIAL AND ETHNIC DIVERSITY AMONG HEALTH CARE PROFESSIONALS WITH ABORTION CARE TRAINING; AND

(IV) SUPPORT THE IDENTIFICATION, SCREENING, AND PLACEMENT OF QUALIFIED PROVIDERS AT TRAINING SITES.

(C) (1) THE DEPARTMENT SHALL RELEASE THE NAME OF THE COORDINATING ORGANIZATION THAT THE DEPARTMENT CONTRACTS WITH UNDER SUBSECTION (A) OF THIS SECTION AND ANY ENTITY RECEIVING FUNDS THROUGH THE COORDINATION ORGANIZATION.

(2) THE DEPARTMENT MAY NOT RELEASE THE NAME OF ANY INDIVIDUAL OR PERSON ADMINISTERING SERVICES THROUGH OR PARTICIPATING IN THE PROGRAM.

13-4405.

FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$3,500,000 TO THE PROGRAM.

13-4406.

(A) THERE IS AN ABORTION CARE CLINICAL TRAINING PROGRAM FUND.

(B) THE PURPOSE OF THE FUND IS TO SUPPORT THE PROGRAM.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(E) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) ANY MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) INTEREST EARNINGS; AND

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR THE PROGRAM.

(H) (1) THE STATE TREASURER SHALL INVEST AND REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(I) THE COMPTROLLER SHALL PAY OUT MONEY FROM THE FUND AS DIRECTED BY THE SECRETARY.

(J) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

- (1) THE GENERAL FUND OF THE STATE; OR**
- (2) ANY OTHER SPECIAL FUND OF THE STATE.**

(K) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

13-4407.

ON OR BEFORE JULY 1 EACH YEAR, THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT ON THE PROGRAM TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

20-103.

(A) IN THIS SECTION, “QUALIFIED PROVIDER” MEANS A PHYSICIAN, NURSE PRACTITIONER, NURSE-MIDWIFE, LICENSED CERTIFIED MIDWIFE, PHYSICIAN ASSISTANT, OR ANY OTHER INDIVIDUAL:

(1) WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PRACTICE IN THE STATE; AND

(2) FOR WHOM THE PERFORMANCE OF AN ABORTION IS WITHIN THE SCOPE OF THE INDIVIDUAL’S LICENSE OR CERTIFICATION.

[(a)] (B) Except as provided in subsections **[(b) and] (c) AND (D)** of this section, a **[physician] QUALIFIED PROVIDER** may not perform an abortion on an unmarried minor unless the **[physician] QUALIFIED PROVIDER** first gives notice to a parent or guardian of the minor.

[(b)] (C) The **[physician] QUALIFIED PROVIDER** may perform the abortion without notice to a parent or guardian if:

- (1) The minor does not live with a parent or guardian; and**
- (2) A reasonable effort to give notice to a parent or guardian is unsuccessful.**

[(c)] (D) **(1)** The **[physician] QUALIFIED PROVIDER** may perform the abortion, without notice to a parent or guardian of a minor if, in the professional judgment of the **[physician] QUALIFIED PROVIDER**:

- (i) Notice to the parent or guardian may lead to physical or emotional abuse of the minor;
- (ii) The minor is mature and capable of giving informed consent to an abortion; or
- (iii) Notification would not be in the best interest of the minor.

(2) The [physician] **QUALIFIED PROVIDER** is not liable for civil damages or subject to a criminal penalty for a decision under this subsection not to give notice.

~~[(d)] (E) **THE FOLLOWING SHALL BE CONCLUSIVE EVIDENCE OF NOTICE OR A REASONABLE ATTEMPT TO GIVE NOTICE:**~~

~~(1) The postal receipt that shows an article of mail was sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice letter that was sent in that article of mail [shall be conclusive evidence of notice or a reasonable effort to give notice, as the case may be]; **OR.**~~

~~(2) **DOCUMENTATION IN THE HEALTH RECORD OF THE MINOR THAT NOTIFICATION OF THE PARENT OR GUARDIAN WAS ATTEMPTED BY USING THE CONTACT INFORMATION AVAILABLE TO THE QUALIFIED PROVIDER.**~~

[(e)] (F) A [physician] **QUALIFIED PROVIDER** may not provide notice to a parent or guardian if the minor decides not to have the abortion.

20-207.

In Part II of this subtitle, [the word “physician”] **“QUALIFIED PROVIDER”** means [any person, including a doctor of osteopathy,] **AN INDIVIDUAL:**

(1) WHO IS licensed, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW to practice [medicine] in the State [of Maryland in compliance with the provisions of Title 14 of the Health Occupations Article]; AND

(2) FOR WHOM THE PERFORMANCE OF AN ABORTION IS WITHIN THE SCOPE OF THE INDIVIDUAL’S LICENSE OR CERTIFICATION.

20-208.

An abortion must be performed by a [licensed physician] **QUALIFIED PROVIDER.**

20-209.

(a) In this section, “viable” means that stage when, in the best [medical] **CLINICAL** judgment of the [attending physician] **QUALIFIED PROVIDER** based on the particular facts of the case before the [physician] **QUALIFIED PROVIDER**, there is a reasonable likelihood of the fetus’s sustained survival outside the womb.

(b) Except as otherwise provided in this subtitle, the State may not interfere with the decision of a woman to terminate a pregnancy:

(1) Before the fetus is viable; or

(2) At any time during the woman’s pregnancy, if:

(i) The termination procedure is necessary to protect the life or health of the woman; or

(ii) The fetus is affected by genetic defect or serious deformity or abnormality.

(c) The Department may adopt regulations that:

(1) Are both necessary and the least intrusive method to protect the life or health of the woman; and

(2) Are not inconsistent with established [medical] **CLINICAL** practice.

(d) The [physician] **QUALIFIED PROVIDER** is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion under this section made in good faith and in the [physician’s] **QUALIFIED PROVIDER’S** best [medical] **CLINICAL** judgment in accordance with accepted standards of [medical] **CLINICAL** practice.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

- 144. the Health Equity Resource Community Reserve Fund;
- [and]
- 145. the Access to Counsel in Evictions Special Fund; AND
- 146. THE ABORTION CARE CLINICAL TRAINING PROGRAM FUND.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

15–103.

(a) (1) The Secretary shall administer the Maryland Medical Assistance Program.

(2) The Program:

(xvi) Beginning on January 1, 2021, shall provide, subject to the limitations of the State budget and § 15–855(b)(2) of the Insurance Article, and as permitted by federal law, services for pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute onset neuropsychiatric syndrome, including the use of intravenous immunoglobulin therapy, for eligible Program recipients, if pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute onset neuropsychiatric syndrome are coded for billing and diagnosis purposes in accordance with § 15–855(d) of the Insurance Article; [and]

(xvii) Beginning on January 1, 2022, may not include, subject to federal approval and limitations of the State budget, a frequency limitation on covered dental prophylaxis care or oral health exams that requires the dental prophylaxis care or oral health exams to be provided at an interval greater than 120 days within a plan year; AND

(XVIII) SHALL PROVIDE COVERAGE OF ABORTION CARE SERVICES TO PROGRAM RECIPIENTS IN THE MANNER DESCRIBED IN § 15–857(B)(1)(II) AND (2) OF THE INSURANCE ARTICLE.

Article – Insurance

15–857.

(A) (1) THIS SECTION APPLIES TO:

(I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE LABOR AND DELIVERY COVERAGE TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE LABOR AND DELIVERY COVERAGE TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(2) THIS SECTION DOES NOT APPLY TO:

(I) A MULTISTATE PLAN THAT DOES NOT PROVIDE COVERAGE FOR ABORTIONS IN ACCORDANCE WITH 42 U.S.C. § 18054(A)(6); OR

(II) A HIGH-DEDUCTIBLE PLAN, AS DEFINED IN 26 U.S.C. § 223(C)(2)(C) OF THE INTERNAL REVENUE CODE, UNLESS THE COMMISSIONER DETERMINES THAT ABORTION CARE IS NOT EXCLUDED FROM THE SAFE HARBOR PROVISIONS FOR PREVENTIVE CARE UNDER § 223(C)(2)(C) OF THE INTERNAL REVENUE CODE.

(3) AN ORGANIZATION THAT IS ELIGIBLE TO OBTAIN AN EXCLUSION FROM THE COVERAGE REQUIREMENTS UNDER § 15-826 OF THIS SUBTITLE MAY OBTAIN FROM AN ENTITY SUBJECT TO THIS SECTION AN EXCLUSION FROM THE COVERAGE AND NOTICE REQUIREMENTS OF THIS SECTION IF THE REQUIREMENTS CONFLICT WITH THE ORGANIZATION'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ENTITY SUBJECT TO THIS SECTION SHALL:

(1) COVER ABORTION CARE SERVICES WITHOUT:

(I) A DEDUCTIBLE, COINSURANCE, COPAYMENT, OR ANY OTHER COST-SHARING REQUIREMENT; AND

(II) RESTRICTIONS THAT ARE INCONSISTENT WITH THE PROTECTED RIGHTS UNDER TITLE 20, SUBTITLE 2 OF THE HEALTH - GENERAL ARTICLE; AND

(2) PROVIDE INFORMATION TO CONSUMERS ABOUT ABORTION CARE COVERAGE USING THE TERMINOLOGY "ABORTION CARE" TO DESCRIBE COVERAGE.

(C) IF THE COMMISSIONER DETERMINES THAT ENFORCEMENT OF THIS SECTION MAY ADVERSELY AFFECT THE ALLOCATION OF FEDERAL FUNDS TO THE STATE, THE COMMISSIONER MAY GRANT AN EXEMPTION TO THE REQUIREMENTS OF THIS SECTION TO THE MINIMUM EXTENT NECESSARY TO ENSURE THE CONTINUED RECEIPT OF FEDERAL FUNDS.

31-122.

(a) In this section, "Pilot Program" means the State-Based Young Adult Health Insurance Subsidies Pilot Program.

(b) The Exchange, in consultation with the Commissioner and as approved by the Board, shall establish and implement a State-Based Young Adult Health Insurance Subsidies Pilot Program to provide subsidies to young adults for the purchase of health benefit plans in the individual health insurance market.

(c) The Pilot Program required under this section shall be designed to:

(1) reduce the amount that young adults pay for health benefit plans in the individual health insurance market; and

(2) target young adults who are not directly impacted by the State Reinsurance Program.

(d) (1) For calendar years 2022 and 2023, the Exchange, in consultation with the Commissioner and as approved by the Board, shall establish subsidy eligibility and payment parameters for the Pilot Program.

(2) In determining the subsidy eligibility and payment parameters required under paragraph (1) of this subsection, the Exchange shall consider:

(i) young adults at least 18 years old and under the age of 41 years; and

(ii) income groups between 133% and 400% of the federal poverty level.

(e) Subject to available funds, in each of fiscal years 2022 through 2024, the Exchange may designate funds from the Fund to be used for the Pilot Program so that not more than \$20,000,000 in annual subsidies may be provided to young adults who meet the subsidy eligibility and payment parameters established under subsection (d) of this section in calendar years 2022 and 2023.

(f) On or before January 1, 2022, the Exchange shall adopt regulations implementing the provisions of this section.

(G) ON OR BEFORE JANUARY 1, 2023, THE EXCHANGE SHALL ADOPT REGULATIONS TO PROVIDE A SUBSIDY TO COVER 100% OF THE COST OF THE PREMIUM FOR YOUNG ADULTS WHO HAVE A 0% EXPECTED CONTRIBUTION UNDER THE SUBSIDY ELIGIBILITY PARAMETERS ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION IN CALENDAR YEAR 2023.

[(g)] (H) (1) The Exchange shall track on a monthly basis expenditures on subsidies provided under the Pilot Program, including:

(i) the average number of young adults receiving subsidies under the Pilot Program; and

(ii) the average subsidy amount received by young adults under the Pilot Program.

(2) The Exchange shall track:

(I) the impact the Pilot Program has on rates in the individual insurance market; AND

(II) THE IMPACT OF COVERING 100% OF THE COST OF PREMIUMS FOR QUALIFIED PARTICIPANTS ON EFFECTUATION RATES AND TERMINATION FOR NONPAYMENT RATES.

(3) The information tracked by the Exchange under paragraphs (1) and (2) of this subsection shall be:

(i) posted on the website of the Exchange; and

(ii) included in the annual report required under § 31-119(d) of this subtitle.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Benefit Exchange, in consultation with the Maryland Insurance Administration, shall convene a workgroup of interested stakeholders to make recommendations to improve the transparency and accessibility of consumer information about abortion care coverage.

(b) On or before January 1, 2023, the Maryland Health Benefit Exchange shall report the recommendations made by the workgroup convened under subsection (a) of this section to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Administration shall collect data from State-regulated plans on receipts, disbursements, and ending balances for segregated accounts established under § 1303(b)(2)(B) and (C) of the federal Patient Protection and Affordable Care Act and 45 C.F.R. § 156.280.

(b) The Maryland Insurance Administration shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, as follows:

(1) on or before January 1, 2023, aggregate data collected for the period from January 1, 2014, to December 31, 2021, both inclusive;

(2) on or before January 1, 2024, aggregate data collected for the period from January 1, 2022, to December 31, 2022, both inclusive;

(3) on or before January 1, 2025, aggregate data collected for the period from January 1, 2023, to December 31, 2023, both inclusive; and

(4) on or before January 1, 2026, aggregate data collected for the period from January 1, 2024, to December 31, 2024, both inclusive.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Benefit Exchange shall study extending the last dollar coverage to other enrollees in addition to the enrollees receiving last dollar coverage through the program established under § 31-122 of the Insurance Article.

(b) On or before January 1, 2024, the Maryland Health Benefit Exchange shall report, in accordance with § 2-1257 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the findings of the study required under subsection (a) of this section.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2023.

SECTION ~~2~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Gubernatorial Veto Override, April 9, 2022.