

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 481 (Delegate Rosenberg, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Health - In Vitro Services - Advance Directives for Disposition of Cryopreserved Eggs, Sperm, or Embryos

This bill requires a health care provider or health care facility that provides in vitro or assisted reproductive services in which eggs, sperm, or embryos are to be cryopreserved for storage to require completion of an advance directive governing the disposition of the cryopreserved eggs, sperm, or embryos.

Fiscal Summary

State Effect: The approval or denial of advance directives could be handled with existing Department of Health and Mental Hygiene (DHMH) budgeted resources. No effect on revenues.

Local Effect: None.

Small Business Effect: Potential minimal. Health care providers or facilities that provide in vitro or assisted reproductive services would be immune from civil suit or criminal charges arising from the improper disposal of cryopreserved eggs, sperm, or embryos if the providers or facilities comply with an advance directive.

Analysis

Bill Summary: An advance directive governing the disposition of cryopreserved eggs, sperm, or embryos must be in writing, signed by the donor(s), and include: (1) the disposition of the cryopreserved eggs, sperm, or embryos in the event of death of a participating partner, divorce of the participating partners, or a decision by either of the

participating partners to cease participating in the in vitro or assisted reproductive services; (2) a provision to notify the health care provider or facility responsible for the cryopreserved eggs, sperm, or embryos of a request to change an advance directive; and (3) if applicable, an agreement requiring compliance with the policies and procedures to be followed in the event of nonpayment of storage fees.

In accordance with an advance directive and upon the death of one of the participating partners, a health care provider or facility may: (1) transfer the cryopreserved eggs, sperm, or embryos to the other participating partner; (2) donate the cryopreserved eggs, sperm, or embryos to another individual or couple or for research purposes; or (3) thaw the cryopreserved eggs, sperm, or embryos without further action.

A health care provider or facility cannot be held liable for civil damages and is not subject to any criminal or disciplinary action for a disposition of cryopreserved eggs, sperm, or embryos that is carried out in accordance with an advance directive that complies with the bill's requirements.

The bill specifies that before a health care provider or health care facility may use an advance directive, the provider or facility must submit the advance directive to DHMH. DHMH must consult with its assistant attorneys general to review the advance directive to assure: (1) that the rights, responsibilities, and duties of the parties are set forth clearly and legibly; (2) that the advance directive complies with applicable federal and State laws; and (3) that the advance directive does not contain provisions that are unenforceable because of public policy. If an advance directive is not submitted to DHMH for approval as to legality, the advance directive may not be adopted under any statutory authority and is not effective. DHMH must notify the health care provider or facility of its approval or disapproval of the advance directive within 30 days of its submission.

Current Law: None applicable.

Additional Information

Prior Introductions: A similar bill, HB 723, was introduced in the 2001 session, but was reported unfavorably by the Environmental Matters Committee.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Family Health Administration), Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2003
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