HOUSE BILL 1198

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By: **Delegate Cox**
Introduced and read first time: February 8, 2021
Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Public Health – Abortion – Drug–Induced Abortions

FOR the purpose of providing that an abortion–inducing drug may be prescribed only by a qualified physician; requiring a qualified physician to meet certain requirements to be authorized to prescribe an abortion–inducing drug; requiring a physician to take certain actions before prescribing an abortion–inducing drug; prohibiting certain consent from being considered completed except under certain circumstances; requiring a physician to schedule a certain follow–up appointment within a certain time period for a woman who has been prescribed or administered an abortion–inducing drug; requiring the qualified physician to make certain efforts and document certain information in the woman's medical record related to a certain follow–up visit; requiring a qualified physician to provide certain contact information to the patient under certain circumstances; prohibiting a person from prescribing, distributing, or otherwise providing abortion–inducing drugs through certain methods, in certain facilities, or on State property; requiring a qualified physician to report certain adverse events to certain entities in a certain manner and within a certain time period; providing that a physician who violates certain provisions of this Act in a certain manner is guilty of a felony; providing that certain penalties and liability may not be assessed against certain individuals; providing that failure to comply with certain requirements provides a basis for certain actions and recovery; requiring a court to allow a certain individual to proceed in a certain manner and take certain action to preserve the privacy of a certain individual; providing for the application of certain provisions of this Act; authorizing the court to award attorney's fees under certain circumstances; requiring the Maryland Department of Health, on or before certain dates, to develop certain forms and materials; requiring the Department, on or before a certain date, to make certain materials available and accessible to the public a in certain manner; requiring the Department to review and update certain materials each year; requiring, on or before a certain date each year, certain facilities and certain health care providers to submit certain reports to the Department; requiring the Department to compile certain information, provide a certain report to the General Assembly and make it available in a certain manner,

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

and summarize and submit certain data to a certain entity; providing that certain reports are public records; requiring the Department to make certain reports available to certain entities for a certain purpose; prohibiting certain entities and individuals from comparing certain data in a certain manner except under certain circumstances; prohibiting certain entities or individuals from maintaining certain information; requiring the Department to provide information on certain requirements to certain entities and individuals; defining certain terms; providing that the provisions of this Act are not severable; and generally relating to drug–induced abortions.

BY adding to
Article – Health – General
Section 20–201 through 20–203 to be under the new part "Part I. Drug–Induced Abortions"
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

Preamble

WHEREAS, In September 2000, the U.S. Food and Drug Administration (FDA) approved the distribution and use of mifepristone, an abortion–inducing drug, at a specific gestation, dosage, and administration protocol, under the authority of 21 C.F.R. § 314.520, also referred to as "Subpart H", which is the only FDA approval process that allows for postmarketing restrictions; and

WHEREAS, The FDA does not treat Subpart H drugs in the same manner as drugs that undergo the typical approval process, giving them heightened scrutiny after approval; and

WHEREAS, Court testimony by Planned Parenthood and other abortion providers has demonstrated that providers routinely and intentionally failed to follow the September 2000 FDA protocol for mifepristone; and

WHEREAS, In March 2016, the FDA modified the gestation, dosage, and administration protocol for drug–induced abortions which required the administration of mifepristone to be followed by the administration of misoprostol, and also required these drugs to be administered by a qualified health care provider who has the ability to assess duration of pregnancy, diagnose ectopic pregnancies, and provide surgical intervention or make plans to provide surgical intervention through another qualified physician; and

WHEREAS, The use of mifepristone presents significant medical risks including uterine hemorrhage, viral infections, abdominal pain, cramping, vomiting, headache, fatigue, and pelvic inflammatory disease; and

WHEREAS, If a woman receiving mifepristone is Rh negative and does not receive an injection of Rh immunoglobulin at the time of the abortion, she may experience Rh incompatibility in future pregnancies, which can lead to complications and miscarriage,

and therefore necessitates a qualified physician to determine blood type and administer Rh immunoglobulin if a woman is Rh negative before the administration of mifepristone; and

WHEREAS, Routine administration of mifepristone following spontaneous miscarriage is unnecessary and exposes the woman to unnecessary risks associated with both mifepristone and misoprostol; and

WHEREAS, The risk of complications increases with advancing gestational age and with the failure to either complete the two–step dosage process for the mifepristone regimen or to receive abortion pill reversal care from a qualified health care professional; and

WHEREAS, Studies document that increased rates of complications, as well as incomplete abortion, occur even within the FDA–approved gestational limit; and

WHEREAS, As of March 2020, the FDA reported 4,480 adverse events after women used mifepristone for drug–induced abortions, including 24 deaths, 1,183 hospitalizations, 339 blood transfusions, 256 infections, and 48 severe infections; and

WHEREAS, Of the reported deaths associated with administration of mifepristone, eight of the women were administered mifepristone in an off–label manner; and

WHEREAS, The Adverse Event Reports systems relied on by the FDA have limitations and typically detect only a small proportion of events that actually occur; and

WHEREAS, Medical evidence demonstrates that women who use abortion–inducing drugs risk four times more complications than those who undergo surgical abortions; and

WHEREAS, A woman's ability to provide informed consent depends on the extent to which the woman receives information sufficient to make an informed choice; and

WHEREAS, The U.S. Supreme Court has stated that the decision to abort "is an important, and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences."; and

WHEREAS, In recent years, physicians have developed a method to potentially reverse the effects of mifepristone, which has been discussed in a peer–reviewed study and is based on decades of the safe use of progesterone to stabilize and continue pregnancies; and

WHEREAS, Statistics show that, as of March 2020, more than 1,000 lives have been saved following this reversal process and that babies born following this reversal process have a rate of birth defects no higher than the general population; and

WHEREAS, Studies show that following this reversal process or otherwise treating a woman with progesterone during pregnancy does not lead to increased mortality rates; and

WHEREAS, To facilitate reliable scientific studies and research on the safety and efficacy of abortion–inducing drugs, it is essential that the medical and public health communities have access to accurate information both on the efficacy and use of abortion–inducing drugs, as well as on resulting complications; and

WHEREAS, The U.S. Supreme Court has stated that abortion "record keeping and reporting provisions that are reasonably directed to the preservation of maternal health and that properly respect a patient's confidentiality and privacy are permissible" and that these requirements do not place "an 'undue burden' on a woman's right to choose whether or not to terminate a pregnancy"; and

WHEREAS, To promote maternal health and protect the health and welfare of every woman considering, a drug induced abortion the State has an interest in:

(1) collecting certain demographic information on all drug–induced abortions in the State, collecting information on all complications arising from drug–induced abortions in the State, and compiling statistical reports based on drug–induced abortion complication information collected in accordance with this Act for future scientific studies and public health research;

(2) ensuring that a physician examines a woman before dispensing an abortion–inducing drug in order to confirm the gestational age of the unborn child, the intrauterine location of the unborn child, and that the unborn child is alive at the time of administration of abortion–inducing drugs;

(3) ensuring that a physician does not prescribe or dispense an abortion–inducing drug beyond 70 days' gestation, consistent with the current FDA administration protocol; and

(4) ensuring that a woman considering a drug–induced abortion receives comprehensive information on abortion–inducing drugs, including the potential to reverse the effects of the drugs should she change her mind, and that a woman submitting to an abortion does so only after giving her voluntary and fully informed consent to the procedure; now, therefore,

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

Article – Health – General

PART I. DRUG–INDUCED ABORTIONS.

20–201.

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

(B) (1) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE PREGNANCY OF A WOMAN, WITH KNOWLEDGE THAT THE TERMINATION BY THOSE MEANS WILL WITH REASONABLE LIKELIHOOD CAUSE THE DEATH OF THE UNBORN CHILD.

(2) "ABORTION" DOES NOT INCLUDE THE USE OR PRESCRIPTION OF ANY INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR MEANS IF USED OR PRESCRIBED TO:

(I) SAVE THE LIFE OR PRESERVE THE HEALTH OF AN UNBORN CHILD;

(II) REMOVE A DEAD UNBORN CHILD RESULTING FROM SPONTANEOUS PREGNANCY LOSS;

(III) REMOVE AN ECTOPIC PREGNANCY; OR

(IV) TREAT A MATERNAL DISEASE OR ILLNESS FOR WHICH THE PRESCRIBED DRUG IS INDICATED.

(C) (1) "ABORTION–INDUCING DRUG" MEANS A MEDICINE, DRUG, OR ANY OTHER SUBSTANCE PRESCRIBED OR DISPENSED WITH THE INTENT OF TERMINATING THE CLINICALLY DIAGNOSABLE PREGNANCY OF A WOMAN KNOWN TO BE PREGNANT, WITH KNOWLEDGE THAT THE TERMINATION WILL CAUSE THE DEATH OF THE UNBORN CHILD WITH REASONABLE LIKELIHOOD.

(2) "ABORTION–INDUCING DRUG" INCLUDES THE OFF–LABEL USE OF DRUGS KNOWN TO HAVE ABORTION–INDUCING PROPERTIES, IF THE DRUGS ARE PRESCRIBED SPECIFICALLY WITH THE INTENT OF CAUSING AN ABORTION.

(3) "ABORTION–INDUCING DRUG" DOES NOT INCLUDE THE USE OF DRUGS THAT MAY BE KNOWN TO CAUSE PREGNANCY LOSS, BUT THAT ARE PRESCRIBED TO THE PATIENT FOR MEDICAL INDICATIONS OTHER THAN ABORTION.

(D) "QUALIFIED PHYSICIAN" MEANS ANY INDIVIDUAL, INCLUDING A DOCTOR OF OSTEOPATHY, LICENSED TO PRACTICE MEDICINE IN THE STATE IN COMPLIANCE WITH THE PROVISIONS OF TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE WHO IS QUALIFIED TO:

(1) IDENTIFY AND DOCUMENT A VIABLE INTRAUTERINE PREGNANCY;

(2) ASSESS THE GESTATIONAL AGE OF PREGNANCY AND INFORM THE PATIENT OF GESTATIONAL AGE–SPECIFIC RISKS OF A DRUG–INDUCED ABORTION;

(3) DIAGNOSE ECTOPIC PREGNANCY;

(4) DETERMINE BLOOD TYPE AND ADMINISTER RH IMMUNOGLOBULIN;

(5) ASSESS A PATIENT FOR SIGNS OF DOMESTIC ABUSE, REPRODUCTIVE CONTROL, HUMAN TRAFFICKING, AND OTHER SIGNALS OF COERCED ABORTION;

(6) PROVIDE SURGICAL INTERVENTION OR ENTER INTO A CONTRACT WITH ANOTHER PHYSICIAN WHO MEETS THE REQUIREMENTS OF THIS SUBSECTION TO PROVIDE SURGICAL INTERVENTION; AND

(7) SUPERVISE AND BEAR LEGAL RESPONSIBILITY FOR ANY AGENT, EMPLOYEE, OR CONTRACTOR WHO IS PARTICIPATING IN ANY PART OF THE ABORTION PROCEDURE, INCLUDING PRE–PROCEDURE EVALUATION AND CARE.

20–202.

(A) AN ABORTION–INDUCING DRUG MAY BE PRESCRIBED ONLY BY A QUALIFIED PHYSICIAN.

(B) A QUALIFIED PHYSICIAN WHO PRESCRIBES AN ABORTION–INDUCING DRUG IN THE STATE MUST:

(1) BE CREDENTIALED AND COMPETENT TO HANDLE COMPLICATION MANAGEMENT, INCLUDING EMERGENCY TRANSFER; OR

(2) (I) HAVE A SIGNED CONTRACT WITH AN ASSOCIATED PHYSICIAN WHO IS CREDENTIALED TO HANDLE COMPLICATIONS; AND

(II) BE ABLE TO PRODUCE THE SIGNED CONTRACT ON DEMAND IF REQUESTED BY THE PREGNANT WOMAN OR BY THE DEPARTMENT.

(C) (1) BEFORE PRESCRIBING AN ABORTION–INDUCING DRUG TO A WOMAN, A QUALIFIED PHYSICIAN SHALL:

(I) INDEPENDENTLY VERIFY THAT THE WOMAN IS CURRENTLY PREGNANT WITH A VIABLE PREGNANCY;

(II) DETERMINE THE BLOOD TYPE OF THE WOMAN AND OFFER TO ADMINISTER RH IMMUNOGLOBULIN IF THE WOMAN IS RH NEGATIVE;

(III) INFORM THE WOMAN THAT SHE MAY SEE THE REMAINS OF HER UNBORN CHILD FOLLOWING THE COMPLETION OF THE ABORTION;

(IV) DOCUMENT THE GESTATIONAL AGE AND INTRAUTERINE LOCATION OF THE PREGNANCY, AND WHETHER THE WOMAN RECEIVED TREATMENT FOR RH NEGATIVITY, AS DIAGNOSED BY THE MOST ACCURATE STANDARD OF MEDICAL CARE; AND

(V) OBTAIN A COMPLETED CONSENT FORM, IN THE FORMAT REQUIRED BY THE DEPARTMENT, FROM THE WOMAN KNOWN TO BE PREGNANT AT LEAST 24 HOURS BEFORE PRESCRIBING THE ABORTION–INDUCING DRUG, UNLESS COMPLIANCE WITH THIS REQUIREMENT WOULD POSE A SUBSTANTIAL RISK OF THE DEATH OF THE WOMAN OR THE SUBSTANTIAL AND IRREVERSIBLE PHYSICAL IMPAIRMENT OF A MAJOR BODILY FUNCTION OF THE WOMAN, NOT INCLUDING PSYCHOLOGICAL OR EMOTIONAL CONDITIONS.

(2) THE CONSENT REQUIRED TO BE OBTAINED UNDER PARAGRAPH (1)(V) OF THIS SUBSECTION MAY NOT BE CONSIDERED COMPLETED UNLESS:

(I) THE PATIENT HAS INITIALED EACH ITEM IN THE CONSENT FORM;

(II) THE PATIENT HAS SIGNED AN "ACKNOWLEDGMENT OF RISKS AND CONSENT STATEMENT"; AND

(III) THE QUALIFIED PHYSICIAN SIGNS THE QUALIFIED PHYSICIAN STATEMENT.

(D) (1) IMMEDIATELY FOLLOWING THE PRESCRIPTION OF AN ABORTION–INDUCING DRUG, A QUALIFIED PHYSICIAN SHALL SCHEDULE A FOLLOW–UP VISIT FOR THE WOMAN BETWEEN APPROXIMATELY 7 TO 14 DAYS AFTER THE ANTICIPATED ADMINISTRATION OF THE ABORTION–INDUCING DRUG TO CONFIRM THAT THE PREGNANCY IS COMPLETELY TERMINATED AND TO ASSESS THE DEGREE OF BLEEDING AND OTHER COMPLICATIONS.

(2) THE QUALIFIED PHYSICIAN SHALL:

(I) MAKE ALL REASONABLE EFFORTS TO ENSURE THAT THE WOMAN RETURNS FOR THE APPOINTMENT SCHEDULED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) DOCUMENT IN THE WOMAN'S MEDICAL RECORD A BRIEF DESCRIPTION OF THE EFFORTS MADE TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING THE DATE, TIME, AND IDENTIFICATION BY NAME OF THE INDIVIDUAL MAKING THE EFFORTS.

(3) IF THE QUALIFIED PHYSICIAN HAS A SIGNED CONTRACT WITH AN ASSOCIATED PHYSICIAN AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THE QUALIFIED PHYSICIAN SHALL PROVIDE THE NAME AND PHONE NUMBER OF THE ASSOCIATED PHYSICIAN TO THE PATIENT.

(E) A PERSON MAY NOT PRESCRIBE, DISTRIBUTE, OR OTHERWISE PROVIDE ABORTION–INDUCING DRUGS:

(1) VIA COURIER, DELIVERY, OR MAIL SERVICE;

(2) IN A SCHOOL FACILITY, INCLUDING ELEMENTARY SCHOOLS, SECONDARY SCHOOLS, AND INSTITUTIONS OF HIGHER EDUCATION; OR

(3) ON STATE PROPERTY.

(F) IF A QUALIFIED PHYSICIAN PRESCRIBES OR OTHERWISE PROVIDES AN ABORTION–INDUCING DRUG TO A PATIENT AND DISCOVERS THAT THE PATIENT HAS SUFFERED AN ADVERSE EVENT DURING OR AFTER USE OF THE ABORTION–INDUCING DRUG, WITHIN 3 DAYS AFTER THE PROVIDER'S DISCOVERY OF THE ADVERSE EVENT, THE QUALIFIED PROVIDER SHALL PROVIDE A WRITTEN REPORT OF THE ADVERSE EVENT TO:

(1) THE FEDERAL FOOD AND DRUG ADMINISTRATION THROUGH THE MEDWATCH REPORTING SYSTEM;

(2) THE DEPARTMENT; AND

(3) THE STATE BOARD OF PHYSICIANS.

(G) (1) A PHYSICIAN WHO INTENTIONALLY, KNOWINGLY, OR RECKLESSLY VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A FELONY.

(2) A CRIMINAL PENALTY MAY NOT BE ASSESSED AGAINST THE PREGNANT WOMAN ON WHOM A DRUG–INDUCED ABORTION IS ATTEMPTED, INDUCED, OR PERFORMED IN VIOLATION OF THIS SECTION.

(H) (1) IN ADDITION TO ANY REMEDIES AVAILABLE UNDER THIS SECTION,

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION SHALL PROVIDE A BASIS FOR:

(I) A CIVIL MALPRACTICE ACTION FOR ACTUAL AND PUNITIVE DAMAGES;

(II) A PROFESSIONAL DISCIPLINARY ACTION AGAINST THE PHYSICIAN; AND

(III) IF THE WOMAN DIED AS A RESULT OF THE VIOLATION, RECOVERY FOR THE WOMAN'S SURVIVORS FOR THE WRONGFUL DEATH OF THE WOMAN.

(2) CIVIL LIABILITY MAY NOT BE ASSESSED AGAINST THE WOMAN ON WHOM THE DRUG–INDUCED ABORTION IS ATTEMPTED, INDUCED, OR PERFORMED.

(3) (I) ON REQUEST, THE COURT SHALL ALLOW A WOMAN TO PROCEED USING ONLY HER INITIALS OR A PSEUDONYM AND MAY CLOSE ANY PROCEEDINGS IN THE CASE AND ENTER OTHER PROTECTIVE ORDERS TO PRESERVE THE PRIVACY OF THE WOMAN ON WHOM THE DRUG–INDUCED ABORTION WAS ATTEMPTED, INDUCED, OR PERFORMED.

(II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO ALLOW THE CONCEALMENT OF THE IDENTITY OF THE DEFENDANT OR OF WITNESSES FOR THE DEFENDANT.

(4) IF JUDGMENT IS RENDERED IN FAVOR OF THE PLAINTIFF, THE COURT SHALL AWARD THE PLAINTIFF REASONABLE ATTORNEY'S FEES.

(5) IF JUDGMENT IS RENDERED IN FAVOR OF THE DEFENDANT AND THE COURT FINDS THAT THE PLAINTIFF'S SUIT WAS FRIVOLOUS AND BROUGHT IN BAD FAITH, THE COURT MAY AWARD THE DEFENDANT REASONABLE ATTORNEY'S FEES.

(I) (1) (I) ON OR BEFORE NOVEMBER 30, 2021, THE DEPARTMENT SHALL DEVELOP A STANDARDIZED FORM TO BE USED BY A QUALIFIED PHYSICIAN TO OBTAIN CONSENT IN ACCORDANCE WITH SUBSECTION (C)(1)(V) OF THIS SECTION.

(II) THE FORM REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:

1. SPACE FOR THE PROVIDER TO NOTE THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AS DETERMINED BY BOTH PATIENT

HISTORY AND BY ULTRASOUND RESULTS USED TO CONFIRM GESTATIONAL AGE;

2. A "QUALIFIED PHYSICIAN DECLARATION" THAT SHALL BE SIGNED BY THE QUALIFIED PHYSICIAN, STATING THAT THE QUALIFIED PHYSICIAN HAS EXPLAINED THE ABORTION–INDUCING DRUG TO BE USED, HAS PROVIDED ALL OF THE INFORMATION REQUIRED BY THIS SECTION, AND HAS ANSWERED ALL OF THE WOMAN'S QUESTIONS;

3. A DETAILED DESCRIPTION OF THE STEPS THAT WILL BE USED TO COMPLETE THE DRUG–INDUCED ABORTION;

4. A DETAILED LIST OF THE RISKS RELATED TO THE SPECIFIC ABORTION–INDUCING DRUG TO BE USED INCLUDING:

A. HEMORRHAGE;

B. FAILURE TO REMOVE ALL TISSUE OF THE UNBORN CHILD AND THAT THE FAILURE MAY REQUIRE AN ADDITIONAL PROCEDURE;

C. SEPSIS;

D. STERILITY; AND

E. POSSIBLE CONTINUATION OF PREGNANCY;

5. INFORMATION ABOUT RH INCOMPATIBILITY, INCLUDING THAT, IF THE WOMAN HAS AN RH NEGATIVE BLOOD TYPE, THE WOMAN SHOULD RECEIVE AN INJECTION OF RH IMMUNOGLOBULIN DURING THE ABORTION TO PREVENT RH INCOMPATIBILITY IN FUTURE PREGNANCIES, WHICH CAN LEAD TO COMPLICATIONS AND MISCARRIAGE IN FUTURE PREGNANCIES;

6. A STATEMENT THAT THE RISKS OF COMPLICATIONS FROM A DRUG–INDUCED ABORTION, INCLUDING INCOMPLETE ABORTION, INCREASE WITH ADVANCING GESTATIONAL AGE;

7. A STATEMENT THAT IT MAY BE POSSIBLE TO REVERSE THE EFFECTS OF THE DRUG–INDUCED ABORTION IF THE WOMAN CHANGES HER MIND, BUT THAT TIME IS OF THE ESSENCE;

8. THAT THE WOMAN MAY SEE THE REMAINS OF HER UNBORN CHILD IN THE PROCESS OF COMPLETING THE ABORTION;

9. A STATEMENT THAT INITIAL STUDIES SUGGEST THAT

CHILDREN BORN AFTER REVERSING THE EFFECTS OF MIFEPRISTONE HAVE NO GREATER RISK OF BIRTH DEFECTS THAN THE GENERAL POPULATION;

10. A STATEMENT THAT INITIAL STUDIES SUGGEST THAT THERE IS NO INCREASED RISK OF MATERNAL MORTALITY AFTER REVERSING THE EFFECTS OF MIFEPRISTONE;

11. A STATEMENT THAT INFORMATION ON AND ASSISTANCE WITH REVERSING THE EFFECTS OF ABORTION–INDUCING DRUGS IS AVAILABLE IN MATERIALS PREPARED BY THE STATE; AND

12. AN "ACKNOWLEDGMENT OF RISKS AND CONSENT STATEMENT" THAT SHALL BE SIGNED BY THE PATIENT AND INCLUDES THE FOLLOWING DECLARATIONS, WHICH SHALL BE INDIVIDUALLY INITIALED BY THE PATIENT:

A. THAT THE WOMAN UNDERSTANDS THAT THE ABORTION–INDUCING DRUG REGIMEN OR PROCEDURE IS INTENDED TO END HER PREGNANCY AND WILL RESULT IN THE DEATH OF HER UNBORN CHILD;

B. THAT THE WOMAN IS NOT BEING FORCED TO HAVE AN ABORTION, THAT SHE HAS THE CHOICE NOT TO HAVE THE ABORTION, AND THAT SHE MAY WITHDRAW HER CONSENT TO THE ABORTION–INDUCING DRUG REGIMEN EVEN AFTER SHE HAS BEGUN THE ABORTION–INDUCING DRUG REGIMEN;

C. THAT THE WOMAN UNDERSTANDS THAT THE DRUG–INDUCED ABORTION REGIMEN TO BE USED HAS SPECIFIC RISKS AND MAY RESULT IN SPECIFIC COMPLICATIONS;

D. THAT THE WOMAN HAS BEEN GIVEN THE OPPORTUNITY TO ASK QUESTIONS ABOUT HER PREGNANCY, THE DEVELOPMENT OF HER UNBORN CHILD, ALTERNATIVES TO ABORTION, THE ABORTION–INDUCING DRUG TO BE USED, AND THE RISKS AND COMPLICATIONS INHERENT TO THE ABORTION–INDUCING DRUG TO BE USED;

E. THAT THE WOMAN WAS INFORMED ORALLY THAT INFORMATION ON THE POTENTIAL ABILITY OF QUALIFIED MEDICAL PROFESSIONALS TO REVERSE THE EFFECTS OF AN ABORTION OBTAINED THROUGH THE USE OF ABORTION–INDUCING DRUGS IS AVAILABLE AT WWW.ABORTIONPILLREVERSAL.COM, OR BY CALLING (877) 558–0333;

F. THAT THE WOMAN HAS BEEN PROVIDED ACCESS TO STATE–PREPARED PRINTED MATERIALS ON INFORMED CONSENT FOR ABORTION

AND THE STATE–PREPARED AND –MAINTAINED WEBSITE ON INFORMED CONSENT FOR ABORTION;

G. IF APPLICABLE, THAT THE WOMAN HAS BEEN GIVEN THE NAME AND PHONE NUMBER OF THE ASSOCIATED PHYSICIAN WHO HAS AGREED TO PROVIDE MEDICAL CARE AND TREATMENT IN THE EVENT OF COMPLICATIONS ASSOCIATED WITH THE ABORTION–INDUCING DRUG REGIMEN OR PROCEDURE;

H. THAT THE QUALIFIED PHYSICIAN WILL SCHEDULE AN IN–PERSON FOLLOW–UP VISIT FOR THE PATIENT BETWEEN APPROXIMATELY 7 TO 14 DAYS AFTER PROVIDING THE ABORTION–INDUCING DRUG TO CONFIRM THAT THE PREGNANCY IS COMPLETELY TERMINATED AND TO ASSESS THE DEGREE OF BLEEDING AND OTHER COMPLICATIONS;

I. THAT THE WOMAN HAS RECEIVED OR BEEN GIVEN SUFFICIENT INFORMATION TO GIVE HER INFORMED CONSENT TO THE ABORTION–INDUCING DRUG REGIMEN OR PROCEDURE; AND

J. THAT THE WOMAN HAS A PRIVATE RIGHT OF ACTION TO SUE THE QUALIFIED PHYSICIAN IF SHE FEELS THAT SHE HAS BEEN COERCED OR MISLED PRIOR TO OBTAINING AN ABORTION, AND HOW TO ACCESS STATE RESOURCES REGARDING HER LEGAL RIGHT TO OBTAIN RELIEF.

(2) (I) ON OR BEFORE NOVEMBER 30, 2021, THE DEPARTMENT SHALL DEVELOP INFORMATIONAL MATERIALS REGARDING INFORMED CONSENT FOR DRUG–INDUCED ABORTIONS AND MAKE THE MATERIALS ACCESSIBLE TO THE PUBLIC BOTH IN PRINTED FORM AND ON THE DEPARTMENT'S WEBSITE.

(II) THE MATERIALS DEVELOPED BY THE DEPARTMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL CONTAIN THE STATEMENT: "INFORMATION ON THE POTENTIAL ABILITY OF QUALIFIED MEDICAL PROFESSIONALS TO REVERSE THE EFFECTS OF AN ABORTION OBTAINED THROUGH THE USE OF ABORTION–INDUCING DRUGS IS AVAILABLE AT WWW.ABORTIONPILLREVERSAL.COM, OR YOU CAN CALL (877) 558–0333 FOR ASSISTANCE IN LOCATING A MEDICAL PROFESSIONAL THAT CAN AID IN THE REVERSAL OF AN ABORTION.".

(III) EACH YEAR, THE DEPARTMENT SHALL REVIEW THE MATERIALS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AND UPDATE THE MATERIALS IF NECESSARY.

20–203.

(A) (1) ON OR BEFORE NOVEMBER 30, 2021, THE DEPARTMENT SHALL DEVELOP A REPORTING FORM TO BE USED BY A FACILITY TO REPORT THE USE OF DRUG–INDUCED ABORTION.

(2) THE FORM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) IDENTIFICATION OF THE QUALIFIED PHYSICIAN WHO PROVIDED THE ABORTION–INDUCING DRUG;

(II) WHETHER THE DRUG–INDUCED ABORTION WAS COMPLETED AT THE FACILITY AT WHICH THE ABORTION–INDUCING DRUG WAS PROVIDED OR AT AN ALTERNATIVE LOCATION;

(III) THE REFERRING PHYSICIAN, AGENCY, OR SERVICE, IF ANY;

(IV) THE PREGNANT WOMAN'S COUNTY, STATE, AND COUNTRY OF RESIDENCE;

(V) THE PREGNANT WOMAN'S AGE AND RACE;

(VI) THE NUMBER OF PREVIOUS PREGNANCIES, NUMBER OF LIVE BIRTHS, AND NUMBER OF PREVIOUS ABORTIONS OF THE PREGNANT WOMAN;

(VII) THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AS DETERMINED BY BOTH PATIENT HISTORY AND BY ULTRASOUND RESULTS USED TO CONFIRM THE GESTATIONAL AGE INCLUDING THE DATE OF THE ULTRASOUND AND GESTATIONAL AGE DETERMINED ON THE DATE OF THE ULTRASOUND;

(VIII) THE NAME OF THE ABORTION–INDUCING DRUG, THE DATE EACH ABORTION–INDUCING DRUG WAS PROVIDED TO THE PREGNANT WOMAN, AND THE REASON FOR THE ABORTION, IF KNOWN;

(IX) ANY PREEXISTING MEDICAL CONDITION OF THE PREGNANT WOMAN THAT WOULD COMPLICATE HER PREGNANCY;

(X) WHETHER THE WOMAN RETURNED FOR A FOLLOW–UP EXAMINATION TO DETERMINE COMPLETION OF THE ABORTION PROCEDURE AND TO ASSESS BLEEDING AND OTHER COMPLICATIONS AND THE DATE AND RESULTS OF ANY FOLLOW–UP EXAMINATION, AND WHAT REASONABLE EFFORTS WERE MADE BY THE QUALIFIED PHYSICIAN TO ENCOURAGE THAT SHE RETURN FOR A FOLLOW–UP EXAMINATION IF SHE DID NOT RETURN;

(XI) WHETHER THE WOMAN SUFFERED ANY COMPLICATIONS, AND WHAT SPECIFIC COMPLICATIONS AROSE AND ANY FOLLOW–UP TREATMENT NEEDED; AND

(XII) 1. THE AMOUNT BILLED TO COVER THE TREATMENT FOR SPECIFIC COMPLICATIONS, INCLUDING CHARGES FOR ANY PHYSICIAN, HOSPITAL, EMERGENCY ROOM, PRESCRIPTION OR OTHER DRUGS, LABORATORY TESTS, AND ANY OTHER COSTS FOR TREATMENT RENDERED; AND

2. WHETHER THE COST OF TREATMENT WAS BILLED TO THE MARYLAND MEDICAL ASSISTANCE PROGRAM, A PRIVATE INSURER, THE WOMAN DIRECTLY, OR ANY OTHER PERSON.

(3) THE FORM REQUIRED TO BE DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT INCLUDE ANY IDENTIFYING INFORMATION OF THE PATIENT.

(4) ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2022, EACH FACILITY AT WHICH AN ABORTION–INDUCING DRUG WAS GIVEN, SOLD, ADMINISTERED, OR OTHERWISE PROVIDED OR PRESCRIBED IN THE IMMEDIATELY PRECEDING CALENDAR YEAR SHALL SUBMIT A REPORT TO THE DEPARTMENT ON THE FORM DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION REGARDING THE USE OF DRUG–INDUCED ABORTIONS.

(B) (1) ON OR BEFORE NOVEMBER 30, 2021, THE DEPARTMENT SHALL DEVELOP A REPORTING FORM FOR A QUALIFIED PHYSICIAN THAT INCLUDES:

(I) 1. WHETHER SPECIFIC COMPLICATIONS WERE IDENTIFIED;

2. IF ANY EMERGENCY TRANSFER WAS REQUIRED; AND

3. IF ANY FOLLOW–UP TREATMENT WAS NEEDED, INCLUDING WHETHER THE PHYSICIAN PROVIDED ADDITIONAL DRUGS OR MEDICATIONS TO COMPLETE THE ABORTION;

(II) IDENTIFICATION OF THE QUALIFIED PHYSICIAN WHO PROVIDED THE ABORTION–INDUCING DRUG;

(III) WHETHER THE DRUG–INDUCED ABORTION WAS COMPLETED AT THE FACILITY AT WHICH THE ABORTION–INDUCING DRUG WAS PROVIDED OR AT AN ALTERNATIVE LOCATION;

(IV) THE REFERRING PHYSICIAN, AGENCY, OR SERVICE, IF ANY;

(V) THE PREGNANT WOMAN'S COUNTY, STATE, AND COUNTRY OF RESIDENCE;

(VI) THE PREGNANT WOMAN'S AGE AND RACE;

(VII) THE NUMBER OF PREVIOUS PREGNANCIES, NUMBER OF LIVE BIRTHS, AND NUMBER OF PREVIOUS ABORTIONS OF THE PREGNANT WOMAN;

(VIII) THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AS DETERMINED BY BOTH PATIENT HISTORY AND BY ULTRASOUND RESULTS USED TO CONFIRM THE GESTATIONAL AGE, INCLUDING THE DATE OF THE ULTRASOUND AND GESTATIONAL AGE DETERMINED ON THAT DATE;

(IX) THE ABORTION–INDUCING DRUG USED, THE DATE THE DRUG WAS PROVIDED TO THE PREGNANT WOMAN, AND THE REASON FOR THE ABORTION, IF KNOWN;

(X) ANY PREEXISTING MEDICAL CONDITION OF THE PREGNANT WOMAN THAT WOULD COMPLICATE HER PREGNANCY;

(XI) WHETHER THE WOMAN RETURNED FOR A FOLLOW–UP EXAMINATION TO DETERMINE COMPLETION OF THE ABORTION PROCEDURE AND TO ASSESS BLEEDING AND OTHER COMPLICATIONS AND THE DATE AND RESULTS OF ANY FOLLOW–UP EXAMINATION, AND WHAT REASONABLE EFFORTS WERE MADE BY THE QUALIFIED PHYSICIAN TO ENCOURAGE THAT SHE RETURN FOR A FOLLOW–UP EXAMINATION IF SHE DID NOT RETURN; AND

(XII) 1. THE AMOUNT BILLED TO COVER THE TREATMENT FOR SPECIFIC COMPLICATIONS, INCLUDING CHARGES FOR ANY PHYSICIAN, HOSPITAL, EMERGENCY ROOM, PRESCRIPTION OR OTHER DRUGS, LABORATORY TESTS, AND ANY OTHER COSTS FOR TREATMENT RENDERED; AND

2. WHETHER THE COST OF TREATMENT WAS BILLED TO THE MARYLAND MEDICAL ASSISTANCE PROGRAM, A PRIVATE INSURER, THE WOMAN DIRECTLY, OR ANY OTHER PERSON.

(2) ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2022, EACH HEALTH CARE PROVIDER, REGARDLESS OF THE HEALTH CARE PROVIDER'S STATUS AS A QUALIFIED PHYSICIAN, WHO HAS TREATED AN INDIVIDUAL FOR AN ADVERSE EVENT RELATED TO A DRUG–INDUCED ABORTION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR SHALL REPORT THE ADVERSE EVENT TO THE DEPARTMENT USING

THE FORM DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) A PHYSICIAN FILING A WRITTEN REPORT WITH THE DEPARTMENT AFTER TREATING A WOMAN FOR COMPLICATIONS OR OTHERWISE IN AN EMERGENCY CAPACITY SHALL MAKE REASONABLE EFFORTS TO INCLUDE ALL OF THE REQUIRED INFORMATION THAT MAY BE OBTAINED WITHOUT VIOLATING THE PRIVACY OF THE WOMAN.

(C) (1) ON OR BEFORE JULY 1 EACH YEAR, BEGINNING IN 2022, THE DEPARTMENT SHALL COMPILE THE INFORMATION FROM THE REPORTS SUBMITTED TO THE DEPARTMENT UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION TO:

(I) PROVIDE A COMPREHENSIVE ANNUAL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, AND MAKE THE REPORT AVAILABLE TO THE PUBLIC IN A DOWNLOADABLE FORMAT; AND

(II) SUMMARIZE AND SUBMIT DATA TO THE CENTERS FOR DISEASE CONTROL AND PREVENTION FOR THE PURPOSE OF INCLUDING THE INFORMATION IN THE ANNUAL VITAL STATISTICS REPORT.

(2) (I) A REPORT FILED IN ACCORDANCE WITH THIS SECTION SHALL BE CONSIDERED A PUBLIC RECORD AND SHALL BE AVAILABLE TO THE PUBLIC IN ACCORDANCE WITH THE PUBLIC INFORMATION ACT.

(II) THE DEPARTMENT SHALL MAKE AN ORIGINAL COPY OF A REPORT FILED UNDER THIS SECTION AVAILABLE TO THE STATE BOARD OF PHYSICIANS, THE STATE BOARD OF PHARMACY, STATE LAW ENFORCEMENT OFFICES, AND CHILD PROTECTIVE SERVICES FOR USE IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT OR ANOTHER UNIT OF STATE GOVERNMENT, OR ANY EMPLOYEE OF THE DEPARTMENT OR ANOTHER UNIT OF STATE GOVERNMENT, MAY NOT COMPARE DATA CONCERNING ABORTIONS OR ABORTION COMPLICATIONS THAT IS MAINTAINED IN AN ELECTRONIC OR OTHER INFORMATION SYSTEM FILE WITH DATA IN ANY OTHER ELECTRONIC OR OTHER INFORMATION SYSTEM FILE IN A MANNER THAT COULD RESULT IN IDENTIFYING A WOMAN OBTAINING OR SEEKING TO OBTAIN A DRUG–INDUCED ABORTION.

(II) THE DEPARTMENT OR ANOTHER UNIT OF STATE GOVERNMENT, OR AN EMPLOYEE OF THE DEPARTMENT OR ANOTHER UNIT OF STATE GOVERNMENT, MAY COMPARE DATA IN THE MANNER PROHIBITED UNDER

SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THERE IS A COURT ORDER OR A JUDICIAL SUBPOENA FOR USING THE DATA.

(4) THE DEPARTMENT OR ANOTHER UNIT OF STATE GOVERNMENT, OR AN EMPLOYEE OF OR ENTITY CONTRACTING WITH THE DEPARTMENT OR ANOTHER UNIT OF STATE GOVERNMENT, MAY NOT MAINTAIN STATISTICAL INFORMATION THAT MAY REVEAL THE IDENTITY OF A WOMAN OBTAINING OR SEEKING TO OBTAIN A DRUG–INDUCED ABORTION.

(D) THE DEPARTMENT SHALL PROVIDE INFORMATION ON THE REPORTING REQUIREMENTS OF THIS SECTION TO ALL MEDICAL PROFESSIONAL ORGANIZATIONS, LICENSED PHYSICIANS, HOSPITALS, EMERGENCY DEPARTMENTS, FACILITIES IN WHICH AN ABORTION IS PERFORMED, LOCAL HEALTH DEPARTMENTS, AMBULATORY SURGICAL FACILITIES, AND OTHER HEALTH CARE FACILITIES IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 1–210 of the General Provisions Article, the provisions of this Act are not severable, and if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, no other provision or application of this Act may be given effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.