

SB0786/383926/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 786
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, strike “health care providers,”; in line 6, strike “dispensers” and substitute “electronic health networks”; strike beginning with “repealing” in line 6 down through “circumstances;” in line 8; in line 11, after “care;” insert “establishing the Protected Health Care Commission;” and in line 24, strike “4–309, 19–103, and 19–145” and substitute “and 19–103”.

On page 2, in line 1, after “4–302.5” insert “and 4–310”.

AMENDMENT NO. 2

On page 2, in line 22, strike “OF AN INDIVIDUAL”; in line 23, after “INFORMATION” insert “OF AN INDIVIDUAL”; in the same line, strike “AN AMBULATORY SURGERY CENTER” and substitute “:

(I) EXCEPT AS PROVIDED IN SUBSECTION (B)(8) OF THIS SECTION, AN AMBULATORY SURGICAL FACILITY”;

in line 24, strike “OR A” and substitute “;OR

(II) A”;

in line 32, after “(2)” insert “**(I) SUBJECT TO ITEM (II) OF THIS ITEM,**” and in the same line, strike the bracket.

On page 3, in line 2, strike the bracket; in the same line, after the semicolon insert “OR”; after line 2, insert:

“(II) IF THE LICENSEE IS LICENSED BY A HEALTH OCCUPATIONS BOARD, THE BUSINESS ADDRESS OF THE LICENSEE;”;

in line 7, strike “and”; and in line 9, after “responsibility” insert “;AND”

(8) FOR AN AMBULATORY SURGICAL FACILITY LICENSED UNDER § 19-3B-01 OF THE HEALTH – GENERAL ARTICLE, THE OWNER, PRIMARY CONTACT, ATTORNEY, OR CONSULTANT CONTAINED IN AN APPLICATION TO THE MARYLAND HEALTH CARE COMMISSION FOR A CERTIFICATE OF NEED OR CERTIFICATE OF NEED EXCEPTION OR DETERMINATION REQUEST”.

AMENDMENT NO. 3

On pages 5 and 6, strike beginning with “THE” in line 36 on page 5 down through “STATE” in line 3 on page 6 and substitute “:

(1) THE PROVISION OF ABORTION CARE; AND

(2) OTHER SENSITIVE HEALTH SERVICES AS DETERMINED BY THE SECRETARY BASED ON THE RECOMMENDATIONS OF THE PROTECTED HEALTH CARE COMMISSION ESTABLISHED UNDER § 4-310 OF THIS SUBTITLE”.

On page 8, strike in their entirety lines 1 through 11, inclusive; in line 12, strike “(S)” and substitute “(Q)”; after line 13, insert:

“(R) “SENSITIVE HEALTH SERVICES” INCLUDES REPRODUCTIVE HEALTH SERVICES OTHER THAN ABORTION CARE.”;

and in line 14, strike “(T)” and substitute “(S)”.

AMENDMENT NO. 4

On page 12, after line 14, insert:

“(A) SUBJECT TO SUBSECTION (D)(3)(II) OF THIS SECTION, THIS SECTION APPLIES TO DISCLOSURES OF HEALTH INFORMATION TO RECIPIENTS LOCATED IN THE STATE AND OUTSIDE THE STATE.”;

in line 15, strike “(A)” and substitute “(B)”; in the same line, strike “A” and substitute **“SUBJECT TO SUBSECTION (D)(3)(II) OF THIS SECTION, BEGINNING DECEMBER 1, 2023, A”**; in the same line, after “EXCHANGE” insert **“OR ELECTRONIC HEALTH NETWORK”**; strike beginning with “A” in line 15 down through “STATE” in line 18 and substitute **“MIFEPRISTONE DATA OR THE DIAGNOSIS, PROCEDURE, MEDICATION, OR RELATED CODES FOR ABORTION CARE AND OTHER SENSITIVE HEALTH SERVICES AS DETERMINED BY THE SECRETARY UNDER SUBSECTION (D) OF THIS SECTION TO A TREATING PROVIDER, A BUSINESS ENTITY, ANOTHER HEALTH INFORMATION EXCHANGE, OR ANOTHER ELECTRONIC HEALTH NETWORK”**; and in line 26, strike “(B) (1) A” and substitute **“(C) (1) BEGINNING JUNE 1, 2024, A”**.

On page 13, in line 4, strike “(C)” and substitute **“(D) (1)”**; strike beginning with the colon in line 4 down through “SUBSECTION” in line 11 and substitute **“DETERMINE FOR ABORTION CARE AND SENSITIVE HEALTH SERVICES THE PROCEDURE, DIAGNOSIS, MEDICATION, AND OTHER RELATED CODES THAT ARE SUBJECT TO THE RESTRICTIONS ON DISCLOSURE ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION DUE TO A SUBSTANTIAL RISK TO PATIENTS OR HEALTH CARE PROVIDERS THAT WOULD RESULT FROM DISCLOSURE.”**

(2) A DETERMINATION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(Over)

(I) FOLLOW APPLICABLE GUIDELINES OF THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, THE WORLD HEALTH ORGANIZATION, AND THE SOCIETY OF FAMILY PLANNING; AND

(II) FOR SENSITIVE HEALTH SERVICES, BE BASED ON THE RECOMMENDATIONS OF THE PROTECTED HEALTH CARE COMMISSION ESTABLISHED UNDER § 4-310 OF THIS SUBTITLE.

(3) (I) THE SECRETARY SHALL ADOPT REGULATIONS TO RESTRICT THE DISCLOSURE OF ABORTION CARE AND OTHER SENSITIVE HEALTH SERVICES INFORMATION BY DIAGNOSIS, PROCEDURE, MEDICATION, OR RELATED CODES UNDER SUBSECTION (B) OF THIS SECTION.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE SECRETARY MAY ADOPT RESTRICTIONS ON THE DISCLOSURE OF ABORTION CARE OR OTHER SENSITIVE HEALTH SERVICES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT ARE APPLICABLE ONLY TO DISCLOSURES BY HEALTH INFORMATION EXCHANGES OR ELECTRONIC HEALTH NETWORKS TO OUT-OF-STATE TREATING PROVIDERS, OUT-OF-STATE BUSINESS ENTITIES, OTHER HEALTH INFORMATION EXCHANGES, OR OTHER ELECTRONIC HEALTH NETWORKS.

(III) ANY REGULATIONS ADOPTED BY THE SECRETARY TO IMPLEMENT RESTRICTIONS ON THE DISCLOSURE OF MIFEPRISTONE DATA UNDER SUBSECTION (B) OF THIS SECTION SHALL APPLY TO DISCLOSURES OF DATA TO RECIPIENTS LOCATED IN THE STATE AND OUTSIDE THE STATE”.

AMENDMENT NO. 5

On page 14, in line 2, strike the brackets; and strike beginning with “OR” in line 4 down through “STATE;” in line 6.

On page 15, in line 25, strike the brackets.

On page 16, in lines 17 and 18, strike “A PROTECTED SERVICES RECORD OR A PROTECTED MEDICATION RECORD” and substitute “ABORTION CARE OR OTHER SENSITIVE HEALTH SERVICES INFORMATION AS DETERMINED BY THE SECRETARY UNDER § 4-302.5(D) OF THIS SUBTITLE”; in lines 19 and 20, strike “FOR A PROTECTED SERVICES RECORD AND PROTECTED MEDICATION RECORD”; and strike beginning with “; OR” in line 20 down through “KEPT” in line 24.

AMENDMENT NO. 6

On pages 16 and 17, strike in their entirety the lines beginning with line 32 on page 16 through line 34 on page 17, inclusive.

AMENDMENT NO. 7

On page 17, after line 34, insert:

“4-310.

(A) THERE IS A PROTECTED HEALTH CARE COMMISSION.

(B) THE PURPOSE OF THE COMMISSION IS TO MAKE RECOMMENDATIONS TO THE SECRETARY REGARDING SENSITIVE HEALTH SERVICES THAT SHOULD BE DETERMINED BY THE SECRETARY TO BE LEGALLY PROTECTED HEALTH CARE UNDER THIS SUBTITLE.

(C) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL’S DESIGNEE;

(Over)

(2) THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION OR THE EXECUTIVE DIRECTOR'S DESIGNEE; AND

(3) THE FOLLOWING MEMBERS APPOINTED BY THE SECRETARY:

(I) A RESIDENT OF THE STATE WHO IS A LICENSED PHYSICIAN AND NOMINATED BY THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS;

(II) A RESIDENT OF THE STATE WHO IS A LICENSED CLINICIAN WHO PROVIDES REPRODUCTIVE HEALTH CARE AND NOMINATED BY THE REPRODUCTIVE HEALTH ACCESS PROJECT;

(III) A RESIDENT OF THE STATE WHO IS A CERTIFIED NURSE-MIDWIFE NOMINATED BY THE MARYLAND AFFILIATE OF THE AMERICAN COLLEGE OF NURSE MIDWIVES;

(IV) A RESIDENT OF THE STATE WHO IS A REPRESENTATIVE OF PHYSICIANS FOR REPRODUCTIVE HEALTH;

(VI) TWO RESIDENTS OF THE STATE WHO ARE CONSUMER REPRESENTATIVES WITH EXPERTISE IN CONSUMER DATA PRIVACY; AND

(VII) A RESIDENT OF THE STATE WITH EXPERTISE IN HEALTH INFORMATION.

(D) THE COMMISSION SHALL:

(1) SELECT A CHAIR OF THE COMMISSION EACH YEAR; AND

(2) MEET AT LEAST FOUR TIMES A YEAR.

(E) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE COMMISSION.

(F) (1) THE COMMISSION SHALL IDENTIFY SENSITIVE HEALTH SERVICES INFORMATION BY DIAGNOSIS, PROCEDURAL, MEDICATION, OR RELATED CODES FOR WHICH DISCLOSURE BY A HEALTH INFORMATION EXCHANGE OR ELECTRONIC HEALTH NETWORK TO A TREATING PROVIDER, BUSINESS ENTITY, ANOTHER HEALTH INFORMATION EXCHANGE, OR ANOTHER ELECTRONIC HEALTH NETWORK WOULD CREATE A SUBSTANTIAL RISK TO PATIENTS OR HEALTH CARE PROVIDERS.

(2) IN CARRYING OUT ITS WORK, THE COMMISSION MAY CONSULT WITH:

(I) ORGANIZATIONS WITH EXPERTISE IN LEGAL ISSUES IMPACTING PROVIDERS OF LEGALLY PROTECTED HEALTH CARE;

(II) ORGANIZATIONS WITH EXPERTISE IN CONSUMER HEALTH PRIVACY;

(III) ORGANIZATIONS WITH EXPERTISE IN HEALTH INFORMATION TECHNOLOGY; AND

(IV) OTHER ORGANIZATIONS WITH CLINICAL, POLICY, OR LEGAL EXPERTISE RELATED TO THE WORK OF THE COMMISSION.

(Over)

(G) (1) THE COMMISSION SHALL ISSUE SEMIANNUAL REPORTS TO THE SECRETARY ON RECOMMENDATIONS REGARDING SENSITIVE HEALTH SERVICES THAT SHOULD BE DETERMINED BY THE SECRETARY TO BE LEGALLY PROTECTED HEALTH CARE UNDER THIS SUBTITLE OR FOR WHICH THE SECRETARY SHOULD RESCIND A PREVIOUS DETERMINATION.

(2) THE REPORTS SHALL INCLUDE AN ASSESSMENT OF THE POTENTIAL RISK TO PATIENTS AND HEALTH CARE PROVIDERS THAT WOULD RESULT FROM THE DISCLOSURE OF THE SENSITIVE HEALTH SERVICES THAT ARE ADDRESSED IN THE REPORTS.

(3) WITHIN 60 DAYS AFTER RECEIVING A SEMIANNUAL REPORT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL SUBMIT A WRITTEN RESPONSE TO THE REPORT THAT INCLUDES THE FINDINGS AND DETERMINATIONS OF THE SECRETARY TO:

(I) THE COMMISSION; AND

(II) IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.”.

AMENDMENT NO. 8

On pages 19 through 22, strike in their entirety the lines beginning with line 16 on page 19 through line 23 on page 22, inclusive.

AMENDMENT NO. 9

On page 24, after line 5, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Health shall adopt emergency regulations within 90 days after the effective date of this Act to identify diagnostic, procedure, medication, and related codes for abortion care in accordance with § 4–302.5 of the Health – General Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Health Care Commission shall adopt emergency regulations within 9 months after the effective date of this Act to implement § 4–302.5 of the Health – General Article, as enacted by Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, in fiscal years 2024 and 2025, the Maryland Health Care Commission shall report on a quarterly basis to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1257 of the State Government Article, on the status of the implementation of § 4–302.5 of the Health – General Article, as enacted by Section 1 of this Act.”;

in line 6, strike “2.” and substitute “5.”; and in line 7, strike “October” and substitute “June”.