

SENATE BILL 786

J1, J5

3lr2403
CF HB 812

By: **Senator Hettleman**

Introduced and read first time: February 6, 2023

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2023

CHAPTER _____

1 AN ACT concerning

2 **Health – Reproductive Health Services – Protected Information and Insurance**
3 **Requirements**

4 FOR the purpose of regulating the disclosure of certain information related to
5 legally protected health care by custodians of public records, ~~health care providers,~~
6 health information exchanges, and ~~dispensars~~ electronic health networks; ~~repealing~~
7 ~~a provision of law authorizing a custodian to allow inspection of the part of a public~~
8 ~~record that gives the home address of a licensee under certain circumstances;~~
9 requiring that the regulations adopted by the Maryland Health Care Commission
10 regarding clinical information to be exchanged through the State-designated
11 exchange restrict data of patients who have obtained legally protected health care;
12 establishing the Protected Health Care Commission; altering the purpose of the
13 Maryland Health Care Commission to include the establishment of policies and
14 standards that protect the confidentiality of certain health care information;
15 clarifying that certain insurance requirements regarding abortion care services
16 apply notwithstanding a certain restriction; and generally relating to health
17 information and reproductive health services.

18 BY repealing and reenacting, with amendments,
19 Article – General Provisions
20 Section 4-333
21 Annotated Code of Maryland
22 (2019 Replacement Volume and 2022 Supplement)

23 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health – General
 2 Section 4–301, 4–302.3, 4–305, ~~4–309, 19–103, and 19–145~~ and 19–103
 3 Annotated Code of Maryland
 4 (2019 Replacement Volume and 2022 Supplement)

5 BY adding to
 6 Article – Health – General
 7 Section 4–302.5 and 4–310
 8 Annotated Code of Maryland
 9 (2019 Replacement Volume and 2022 Supplement)

10 BY repealing and reenacting, with amendments,
 11 Article – Insurance
 12 Section 15–857
 13 Annotated Code of Maryland
 14 (2017 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, without amendments,
 16 Article – Insurance
 17 Section 31–116(a)
 18 Annotated Code of Maryland
 19 (2017 Replacement Volume and 2022 Supplement)

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

22 **Article – General Provisions**

23 4–333.

24 (a) Subject to subsections (b) through (d) of this section, a custodian shall deny
 25 inspection of the part of a public record that:

26 (1) contains information about the licensing of an individual in an
 27 occupation or a profession;

28 (2) ~~CONTAINS THE NAME OF AN INDIVIDUAL OR OTHER IDENTIFYING~~
 29 ~~INFORMATION OF AN INDIVIDUAL RELATED TO AN AMBULATORY SURGERY CENTER;~~

30 (I) EXCEPT AS PROVIDED IN SUBSECTION (B)(8) OF THIS
 31 SECTION, AN AMBULATORY SURGICAL FACILITY LICENSED UNDER § 19–3B–01 OF
 32 THE HEALTH – GENERAL ARTICLE OR A; OR

33 (II) A SURGICAL ABORTION FACILITY LICENSED UNDER §
 34 20–209 OF THE HEALTH – GENERAL ARTICLE; OR

1 **(3) RELATES TO AN INVESTIGATION OF A LICENSEE OR CERTIFICATE**
 2 **HOLDER REGARDING THE PROVISION OF LEGALLY PROTECTED HEALTH CARE, AS**
 3 **DEFINED IN § 4-301 OF THE HEALTH – GENERAL ARTICLE, PENDING A FINAL**
 4 **ORDER.**

5 (b) A custodian shall allow inspection of the part of a public record that gives:

6 (1) the name of the licensee;

7 (2) **(I) SUBJECT TO ITEM (II) OF THIS ITEM,** the business address of
 8 the licensee ~~for~~, if the business address is not available, the home address of the licensee
 9 after the custodian redacts any information that identifies the location as the home address
 10 of an individual with a disability as defined in § 20-701 of the State Government Article~~;~~
 11 **OR**

12 **(II) IF THE LICENSEE IS LICENSED BY A HEALTH OCCUPATIONS**
 13 **BOARD, THE BUSINESS ADDRESS OF THE LICENSEE;**

14 (3) the business telephone number of the licensee;

15 (4) the educational and occupational background of the licensee;

16 (5) the professional qualifications of the licensee;

17 (6) any orders and findings that result from formal disciplinary actions;

18 ~~and~~

19 (7) any evidence that has been provided to the custodian to meet the
 20 requirements of a statute as to financial responsibility; **AND**

21 **(8) FOR AN AMBULATORY SURGICAL FACILITY LICENSED UNDER §**
 22 **19-3B-01 OF THE HEALTH – GENERAL ARTICLE, THE OWNER, PRIMARY CONTACT,**
 23 **ATTORNEY, OR CONSULTANT CONTAINED IN AN APPLICATION TO THE MARYLAND**
 24 **HEALTH CARE COMMISSION FOR A CERTIFICATE OF NEED OR CERTIFICATE OF**
 25 **NEED EXCEPTION OR DETERMINATION REQUEST.**

26 (c) A custodian may allow inspection of other information about a licensee if:

27 (1) the custodian finds a compelling public purpose; and

28 (2) the rules or regulations of the official custodian allow the inspection.

29 (d) Except as otherwise provided by this section or other law, a custodian shall
 30 allow inspection by the person in interest.

1 (e) A custodian who sells lists of licensees shall omit from the lists the name of
2 any licensee, on written request of the licensee.

3 Article – Health – General

4 4–301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) “Common ownership” means ownership of a health care entity:

7 (1) By two or more health care providers;

8 (2) By two or more health care providers employed by a mutual employer
9 for a wage, salary, fee, or payment to perform work for the employer;

10 (3) By health care organizations operating as an organized health care
11 arrangement, as defined in 45 C.F.R. § 160.103;

12 (4) By a health care entity or health care entities that possess an ownership
13 or equity interest of 5% or more in another health care entity; or

14 (5) By affiliated providers operating under the same trade name.

15 (c) “Directory information” means information concerning the presence and
16 general health condition of a patient who has been admitted to a health care facility or who
17 is currently receiving emergency health care in a health care facility.

18 (d) “Disclose” or “disclosure” means the transmission or communication of
19 information in a medical record, including an acknowledgment that a medical record on a
20 particular patient or recipient exists.

21 (e) “Emergency” means a situation when, in the professional opinion of the health
22 care provider, a clear and significant risk of death or imminent serious injury or harm to a
23 patient or recipient exists.

24 (f) “General health condition” means the health status of a patient described in
25 terms of “critical”, “poor”, “fair”, “good”, “excellent”, or terms denoting similar conditions.

26 (g) “Health care” means any care, treatment, or procedure by a health care
27 provider:

28 (1) To diagnose, evaluate, rehabilitate, manage, treat, or maintain the
29 physical or mental condition of a patient or recipient; or

30 (2) That affects the structure or any function of the human body.

1 (h) (1) “Health care provider” means:

2 (i) A person who is licensed, certified, or otherwise authorized under
3 the Health Occupations Article or § 13–516 of the Education Article to provide health care
4 in the ordinary course of business or practice of a profession or in an approved education or
5 training program; or

6 (ii) A facility where health care is provided to patients or recipients,
7 including a facility as defined in § 10–101(g) of this article, a hospital as defined in §
8 19–301 of this article, a related institution as defined in § 19–301 of this article, a health
9 maintenance organization as defined in § 19–701(g) of this article, an outpatient clinic, a
10 medical laboratory, a comprehensive crisis response center, a crisis stabilization center,
11 and a crisis treatment center established under § 7.5–207 of this article.

12 (2) “Health care provider” includes the agents, employees, officers, and
13 directors of a facility and the agents and employees of a health care provider.

14 (i) (1) “Health information exchange” means:

15 (i) An individual or entity that determines, controls, or has the
16 discretion to administer any requirement, policy, or agreement that allows, enables, or
17 requires the use of any technology or services for access, exchange, or use of electronic
18 protected health care information:

19 1. Among more than two unaffiliated individuals or entities
20 that are enabled to exchange electronic protected health information with each other; and

21 2. That is for a treatment, payment, or health care
22 operations purpose, as those terms are defined in 45 C.F.R. § 164.501, regardless of whether
23 the individuals or entities are subject to the requirements of 45 C.F.R. parts 160 and 164;
24 or

25 (ii) A health information technology developer of certified health
26 information technology that develops or offers health information technology, as that term
27 is defined in 42 U.S.C. 300jj(5), and has one or more Health Information Technology
28 Modules certified under a program for the voluntary certification of health information
29 technology that is kept or recognized by the National Coordinator in accordance with 42
30 U.S.C. 300jj–11(c)(5).

31 (2) “Health information exchange” does not include:

32 (i) An entity composed of health care providers under common
33 ownership if the organizational and technical processes the entity provides or governs are
34 for health care treatment, payment, or health care operations purposes, as those terms are
35 defined in 45 C.F.R. § 164.501;

(ii) A carrier, as defined in § 15–1301 of the Insurance Article if the organizational and technical processes the carrier provides or governs are for health care treatment, payment, or health care operations purposes, as those terms are defined in 45 C.F.R. § 164.501;

(iii) An administrator, as defined in § 8–301 of the Insurance Article, if the organizational and technical processes the administrator provides or governs are for health care treatment, payment, or health care operations purposes, as those terms are defined in 45 C.F.R. § 164.501;

(iv) A health care provider, as defined in subsection (h) of this section, if the organizational and technical processes the health care provider provides or governs are for health care treatment, payment, or health care operations purposes, as those terms are defined in 45 C.F.R. § 164.501;

(v) A carrier’s business associate, as defined in 45 C.F.R. § 160.103, if the organizational and technical processes provided or governed by the business associate are transactions, as defined in 45 C.F.R. § 160.103; or

(vi) A carrier exchanging information as required by 45 C.F.R. § 156.221.

(j) **“LEGALLY PROTECTED HEALTH CARE” MEANS ALL REPRODUCTIVE HEALTH SERVICES, MEDICATIONS, AND SUPPLIES RELATED TO ~~THE DIRECT PROVISION OR SUPPORT OF THE PROVISION OF CARE RELATED TO PREGNANCY, CONTRACEPTION, ASSISTED REPRODUCTION, AND ABORTION THAT IS LAWFUL IN THE STATE;~~**

(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.

(K) (1) “Medical record” means any oral, written, or other transmission in any form or medium of information that:

(i) Is entered in the record of a patient or recipient;

(ii) Identifies or can readily be associated with the identity of a patient or recipient; and

(iii) Relates to the health care of the patient or recipient.

(2) “Medical record” includes any:

1 (i) Documentation of disclosures of a medical record to any person
2 who is not an employee, agent, or consultant of the health care provider;

3 (ii) File or record maintained under § 12–403(c)(13) of the Health
4 Occupations Article by a pharmacy of a prescription order for drugs, medicines, or devices
5 that identifies or may be readily associated with the identity of a patient;

6 (iii) Documentation of an examination of a patient regardless of who:

7 1. Requested the examination; or

8 2. Is making payment for the examination; and

9 (iv) File or record received from another health care provider that:

10 1. Relates to the health care of a patient or recipient received
11 from that health care provider; and

12 2. Identifies or can readily be associated with the identity of
13 the patient or recipient.

14 **[(k)] (L)** (1) “Mental health services” means health care rendered to a
15 recipient primarily in connection with the diagnosis, evaluation, treatment, case
16 management, or rehabilitation of any mental disorder.

17 (2) For acute general hospital services, mental health services are
18 considered to be the primarily rendered service only if service is provided pursuant to Title
19 10, Subtitle 6 of this article or Title 3 of the Criminal Procedure Article.

20 **[(l)] (M)** “Patient” means a person who receives health care and on whom a
21 medical record is maintained.

22 **[(m)] (N)** “Person in interest” means:

23 (1) An adult on whom a health care provider maintains a medical record;

24 (2) A person authorized to consent to health care for an adult consistent
25 with the authority granted;

26 (3) A duly appointed personal representative of a deceased person;

27 (4) (i) A minor, if the medical record concerns treatment to which the
28 minor has the right to consent and has consented under Title 20, Subtitle 1 of this article;
29 or

1 (ii) A parent, guardian, custodian, or a representative of the minor
 2 designated by a court, in the discretion of the attending physician who provided the
 3 treatment to the minor, as provided in § 20–102 or § 20–104 of this article;

4 (5) If item (4) of this subsection does not apply to a minor:

5 (i) A parent of the minor, except if the parent’s authority to consent
 6 to health care for the minor has been specifically limited by a court order or a valid
 7 separation agreement entered into by the parents of the minor; or

8 (ii) A person authorized to consent to health care for the minor
 9 consistent with the authority granted; or

10 (6) An attorney appointed in writing by a person listed in item (1), (2), (3),
 11 (4), or (5) of this subsection.

12 ~~[(n)]~~ **(O)** “Primary provider of mental health services” means the designated
 13 mental health services provider who:

14 (1) Has primary responsibility for the development of the mental health
 15 treatment plan for the recipient; and

16 (2) Is actively involved in providing that treatment.

17 ~~[(o)]~~ **(P)** “Protected health information” means all individually identifiable
 18 health information held or transmitted by a covered entity or its business associate
 19 protected under the U.S. Department of Health and Human Services Privacy Rule.

20 ~~**(Q)** “PROTECTED MEDICATION RECORD” MEANS ANY IDENTIFYING~~
 21 ~~INFORMATION ABOUT THE PATIENT OR PRESCRIBER OF MEDICATION USED IN A~~
 22 ~~MEDICAL ABORTION IF THE MEDICATION:~~

23 ~~**(1)** HAS BEEN APPROVED BY THE FEDERAL FOOD AND DRUG~~
 24 ~~ADMINISTRATION FOR MEDICAL ABORTION; OR~~

25 ~~**(2)** IS RECOGNIZED BY THE SECRETARY.~~

26 ~~**(R)** **(1)** “PROTECTED SERVICES RECORD” MEANS ANY IDENTIFYING~~
 27 ~~INFORMATION CONTAINED IN A PATIENT’S MEDICAL RECORD RELATING TO THE~~
 28 ~~PROVISION OF LEGALLY PROTECTED HEALTH CARE.~~

29 ~~**(2)** “PROTECTED SERVICES RECORD” DOES NOT INCLUDE A~~
 30 ~~PROTECTED MEDICATION RECORD.~~

31 ~~[(p)]~~ ~~**(S)**~~ **(Q)** “Recipient” means a person who has applied for, for whom an
 32 application has been submitted, or who has received mental health services.

1 **(R) “SENSITIVE HEALTH SERVICES” INCLUDES REPRODUCTIVE HEALTH**
2 **SERVICES OTHER THAN ABORTION CARE.**

3 ~~[(q)]~~ **(S)** “State–designated health information exchange” means the health
4 information exchange designated by the Maryland Health Care Commission and the
5 Health Services Cost Review Commission under § 19–143 of this article.

6 4–302.3.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) “Electronic health care transactions” means health care transactions
9 that have been approved by a nationally recognized health care standards development
10 organization to support health care informatics, information exchange, systems
11 integration, and other health care applications.

12 (3) “Electronic health network” means an entity:

13 (i) Involved in the exchange of electronic health care transactions
14 between a payor, health care provider, vendor, and any other entity; and

15 (ii) Certified by the Maryland Health Care Commission.

16 (4) “Nursing home” has the meaning stated in § 19–1401 of this article.

17 (5) “Standard request” means a request for clinical information from a
18 health information exchange that conforms to the major standards version specified by the
19 Office of the National Coordinator for Health Information Technology.

20 (b) This section applies to:

21 (1) Except for the State–designated health information exchange, a health
22 information exchange operating in the State; and

23 (2) A payor that:

24 (i) Holds a valid certificate of authority issued by the Maryland
25 Insurance Commissioner; and

26 (ii) Acts as, operates, or owns a health information exchange.

27 (c) An entity to which this section applies shall connect to the State–designated
28 health information exchange in a manner consistent with applicable federal and State
29 privacy laws.

1 (d) When a standard request for clinical information is received through the
2 State–designated health information exchange, an entity to which this section applies
3 shall:

4 (1) Respond to the request to the extent authorized under federal and State
5 privacy laws; and

6 (2) Transmit the response to the State–designated health information
7 exchange in the manner specified in the regulations adopted under subsection (g) of this
8 section.

9 (e) A consent from a patient to release clinical information to a provider obtained
10 by an entity to which this section applies shall apply to information transmitted through
11 the State–designated health information exchange or by other means.

12 (f) (1) On request of the Department, a nursing home shall submit
13 electronically clinical information to the State–designated health information exchange to
14 facilitate the objectives stated in paragraph (3) of this subsection.

15 (2) In accordance with State and federal law and to facilitate the objectives
16 stated in paragraph (3) of this subsection, the State–designated health information
17 exchange may provide the information submitted under paragraph (1) of this subsection to:

18 (i) A health care provider;

19 (ii) An authorized health information exchange user;

20 (iii) A health information exchange authorized by the Maryland
21 Health Care Commission;

22 (iv) A federal official; and

23 (v) A State official.

24 (3) (i) If approved by the Maryland Health Care Commission, the
25 information submitted under paragraph (1) of this subsection may be combined with other
26 data maintained by the State–designated health information exchange to facilitate:

27 1. A State health improvement program;

28 2. Mitigation of a public health emergency; and

29 3. Improvement of patient safety.

30 (ii) The information submitted by a nursing home under paragraph
31 (1) of this subsection may be used only to facilitate the objectives stated in subparagraph

1 (i) of this paragraph and may not be used for any other purpose, including licensing and
2 certification.

3 (g) (1) The State–designated health information exchange shall:

4 (i) Participate in the advisory committee established under §
5 13–4306(a)(1) of this article; and

6 (ii) Maintain a data set for the Maryland Commission on Health
7 Equity and provide data from the data set consistent with the parameters defined by the
8 advisory committee.

9 (2) If approved by the Maryland Commission on Health Equity, the
10 State–designated health information exchange may use the data set maintained under
11 paragraph (1) of this subsection to improve health outcomes for patients.

12 (h) (1) An electronic health network shall provide electronic health care
13 transactions to the State–designated health information exchange for the following public
14 health and clinical purposes:

15 (i) A State health improvement program;

16 (ii) Mitigation of a public health emergency; and

17 (iii) Improvement of patient safety.

18 (2) An electronic health network may not charge a fee to a health care
19 provider, health care payor, or to the State–designated health information exchange for
20 providing the information as required under paragraph (1) of this subsection.

21 (3) The State–designated health information exchange shall develop and
22 implement policies and procedures to implement paragraph (1) of this subsection that are
23 consistent with regulations adopted by the Maryland Health Care Commission.

24 (i) The Maryland Health Care Commission:

25 (1) Shall adopt regulations for implementing the connectivity to the
26 State–designated health information exchange required under this section; and

27 (2) Shall seek, through any regulations adopted under item (1) of this
28 subsection, to promote technology standards and formats that conform to those specified by
29 the Office of the National Coordinator for Health Information Technology.

30 (j) (1) The Maryland Health Care Commission shall adopt regulations that:

31 (i) Specify the scope of clinical information to be exchanged or sent
32 under this section; and

1 (ii) Provide for a uniform, gradual implementation of the exchange
2 of clinical information under this section.

3 (2) Any regulations adopted under paragraph (1) of this subsection shall
4 limit the scope of the clinical information to purposes that:

5 (i) Improve treatment, including improved access to clinical records
6 by treating clinicians;

7 (ii) Promote uses of the State–designated health information
8 exchange important to public health; or

9 (iii) The protection of the electronic health information of a person in
10 interest who has opted out of having electronic health information shared or disclosed by a
11 health information exchange.

12 (3) Regulations adopted under paragraph (1) of this subsection shall:

13 (i) Limit redisclosure of financial information, including billed or
14 paid amounts available in electronic claims transactions;

15 (ii) Restrict data of patients who have opted out of records sharing
16 through the State–designated health information exchange or a health information
17 exchange authorized by the Maryland Health Care Commission; [and]

18 (iii) Restrict data from health care providers that possess sensitive
19 health care information; **AND**

20 **(IV) RESTRICT DATA OF PATIENTS WHO HAVE OBTAINED**
21 **LEGALLY PROTECTED HEALTH CARE.**

22 (k) This section does not:

23 (1) Require an entity to which this section applies to collect clinical
24 information or obtain any authorizations, not otherwise required by federal or State law,
25 relating to information to be sent or received through the State–designated health
26 information exchange;

27 (2) Prohibit an entity to which this section applies from directly receiving
28 or sending information to providers or subscribers outside of the State–designated health
29 information exchange; or

30 (3) Prohibit an entity to which this section applies from connecting and
31 interoperating with the State–designated health information exchange in a manner and
32 scope beyond that required under this section.

1 4-302.5.

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

5 ~~(A)~~ (B) A SUBJECT TO SUBSECTION (D)(3)(II) OF THIS SECTION,
6 BEGINNING DECEMBER 1, 2023, A HEALTH INFORMATION EXCHANGE OR
7 ELECTRONIC HEALTH NETWORK MAY NOT DISCLOSE A PROTECTED SERVICES
8 RECORD OR PROTECTED MEDICATION RECORD TO A TREATING PROVIDER,
9 BUSINESS ENTITY, OR HEALTH INFORMATION EXCHANGE LOCATED OUTSIDE THE
10 STATE MIFEPRISTONE DATA OR THE DIAGNOSIS, PROCEDURE, MEDICATION, OR
11 RELATED CODES FOR ABORTION CARE AND OTHER SENSITIVE HEALTH SERVICES AS
12 DETERMINED BY THE SECRETARY UNDER SUBSECTION (D) OF THIS SECTION TO A
13 TREATING PROVIDER, A BUSINESS ENTITY, ANOTHER HEALTH INFORMATION
14 EXCHANGE, OR ANOTHER ELECTRONIC HEALTH NETWORK UNLESS THE
15 DISCLOSURE IS:

16 (1) FOR THE ADJUDICATION OF CLAIMS; OR

17 (2) TO A SPECIFIC TREATING PROVIDER AT THE WRITTEN REQUEST
18 OF AND WITH THE CONSENT OF:

19 (i) A PATIENT, FOR SERVICES FOR WHICH THE PATIENT CAN
20 PROVIDE CONSENT UNDER STATE LAW; OR

21 (ii) A PARENT OR GUARDIAN OF A PATIENT, FOR SERVICES FOR
22 WHICH THE PARENT OR GUARDIAN CAN PROVIDE CONSENT UNDER STATE LAW.

23 ~~(B)~~ ~~(1)~~ (C) (1) A BEGINNING JUNE 1, 2024, A PERSON WHO
24 KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
25 CONVICTION IS SUBJECT TO A FINE NOT TO EXCEED \$10,000 PER DAY.

26 (2) IN DETERMINING THE FINE TO BE IMPOSED UNDER PARAGRAPH
27 (1) OF THIS SUBSECTION, THE FOLLOWING FACTORS SHALL BE CONSIDERED:

28 (i) THE EXTENT OF ACTUAL OR POTENTIAL PUBLIC HARM
29 CAUSED BY THE VIOLATION;

30 (ii) THE COST OF INVESTIGATING THE VIOLATION; AND

31 (iii) WHETHER THE PERSON PREVIOUSLY VIOLATED THIS
32 SECTION.

1 ~~(c)~~ (D) (1) THE SECRETARY SHALL:

2 ~~(1) ADOPT REGULATIONS THAT IDENTIFY THE MEDICATIONS TO BE~~
3 ~~CONSIDERED A MEDICATION USED IN A MEDICAL ABORTION FOR PURPOSES OF~~
4 ~~DETERMINING IF A RECORD IS A PROTECTED MEDICATION RECORD; AND~~

5 ~~(2) FOLLOW GUIDELINES OF THE AMERICAN COLLEGE OF~~
6 ~~OBSTETRICIANS AND GYNECOLOGISTS, THE WORLD HEALTH ORGANIZATION, AND~~
7 ~~THE SOCIETY OF FAMILY PLANNING IN DETERMINING WHICH MEDICATIONS TO~~
8 ~~IDENTIFY IN THE REGULATIONS ADOPTED UNDER ITEM (1) OF THIS SUBSECTION~~
9 DETERMINE FOR ABORTION CARE AND SENSITIVE HEALTH SERVICES THE
10 PROCEDURE, DIAGNOSIS, MEDICATION, AND OTHER RELATED CODES THAT ARE
11 SUBJECT TO THE RESTRICTIONS ON DISCLOSURE ESTABLISHED UNDER
12 SUBSECTION (B) OF THIS SECTION DUE TO A SUBSTANTIAL RISK TO PATIENTS OR
13 HEALTH CARE PROVIDERS THAT WOULD RESULT FROM DISCLOSURE.

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

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

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

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

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

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

1 4-305.

2 (a) This section may not be construed to impose an obligation on a health care
3 provider to disclose a medical record.

4 (b) A health care provider may disclose a medical record without the
5 authorization of a person in interest:

6 (1) (i) To the provider's authorized employees, agents, medical staff,
7 medical students, or consultants for the sole purpose of offering, providing, evaluating, or
8 seeking payment for health care to patients or recipients by the provider;

9 (ii) To the provider's legal counsel regarding only the information in
10 the medical record that relates to the subject matter of the representation; or

11 (iii) To any provider's insurer or legal counsel, or the authorized
12 employees or agents of a provider's insurer or legal counsel, for the sole purpose of handling
13 a potential or actual claim against any provider if the medical record is maintained on the
14 claimant and relates to the subject matter of the claim;

15 (2) If the person given access to the medical record signs an
16 acknowledgment of the duty under this Act not to redisclose any patient identifying
17 information, to a person for:

18 (i) Educational or research purposes, subject to the applicable
19 requirements of an institutional review board;

20 (ii) Evaluation and management of health care delivery systems;
21 ~~for~~

22 (iii) Accreditation of a facility by professional standard setting
23 entities; ~~OR~~

24 ~~(IV) AN OUT-OF-STATE INVESTIGATION OF LEGALLY~~
25 ~~PROTECTED HEALTH CARE PROVIDED IN THE STATE;~~

26 (3) Subject to the additional limitations for a medical record developed
27 primarily in connection with the provision of mental health services in § 4-307 of this
28 subtitle, to a government agency performing its lawful duties as authorized by an act of the
29 Maryland General Assembly or the United States Congress;

30 (4) Subject to the additional limitations for a medical record developed
31 primarily in connection with the provision of mental health services in § 4-307 of this
32 subtitle, to another health care provider for the sole purpose of treating the patient or
33 recipient on whom the medical record is kept;

1 (5) If a claim has been or may be filed by, or with the authorization of a
2 patient or recipient on behalf of the patient or recipient, for covered insureds, covered
3 beneficiaries, or enrolled recipients only, to third party payors and their agents, if the
4 payors or agents have met the applicable provisions of §§ 15–10B–01 to 15–10B–18 of the
5 Insurance Article, including nonprofit health service plans, health maintenance
6 organizations, fiscal intermediaries and carriers, the Department and its agents, the
7 United States Department of Health and Human Services and its agents, or any other
8 person obligated by contract or law to pay for the health care rendered for the sole purposes
9 of:

10 (i) Submitting a bill to the third party payor;

11 (ii) Reasonable prospective, concurrent, or retrospective utilization
12 review or predetermination of benefit coverage;

13 (iii) Review, audit, and investigation of a specific claim for payment
14 of benefits; or

15 (iv) Coordinating benefit payments in accordance with the provisions
16 of the Insurance Article under more than one sickness and accident, dental, or hospital and
17 medical insurance policy;

18 (6) If a health care provider makes a professional determination that an
19 immediate disclosure is necessary, to provide for the emergency health care needs of a
20 patient or recipient;

21 (7) To immediate family members of the patient or any other individual
22 with whom the patient is known to have a close personal relationship, provided that:

23 (i) The disclosure is limited to information that is directly relevant
24 to the individual's involvement in the patient's health care; and

25 (ii) 1. If the patient is present or otherwise available before the
26 disclosure and has the capacity to make health care decisions:

27 A. The patient has been provided with an opportunity to
28 object to the disclosure and the patient has not objected; or

29 B. The health care provider reasonably infers from the
30 circumstances that, based on the health care provider's professional judgment, the patient
31 does not object to the disclosure; or

32 2. If the patient is not present or otherwise available before
33 the disclosure is made, or providing the patient with an opportunity to object to the
34 disclosure is not practicable because of the patient's incapacity or need for emergency care
35 or treatment, the health care provider determines, based on the health care provider's
36 professional judgment, that the disclosure is in the best interests of the patient;

1 (8) To an appropriate organ, tissue, or eye recovery agency under the
2 restrictions of § 5–408 of this article for a patient whose organs and tissues may be donated
3 for the purpose of evaluating the patient for possible organ and tissue donation;

4 (9) To the Department or an organ, tissue, or eye recovery agency
5 designated by the Department for the purpose of conducting death record reviews under §
6 19–310 of this article;

7 (10) Subject to subsection (c) of this section, if the purpose of the medical
8 record disclosure is for the coordination of services and record retention within the
9 Montgomery County Department of Health and Human Services; ~~for~~

10 (11) To a carrier, as defined in § 15–1301 of the Insurance Article, or an
11 accountable care organization, as defined in § 3022 of the Patient Protection and Affordable
12 Care Act, for the sole purposes of enhancing or coordinating patient care, provided that:

13 (i) A disclosure under this item is subject to the additional
14 limitations in § 4–307 of this subtitle on disclosure of a medical record developed primarily
15 in connection with the provision of mental health services;

16 (ii) A medical record may be disclosed only in accordance with the
17 federal Health Insurance Portability and Accountability Act of 1996, any regulations
18 adopted under the Act, and any other applicable federal privacy laws, and disclosures under
19 this item may not be made in violation of the prohibited uses or disclosures under the
20 federal Health Insurance Portability and Accountability Act of 1996;

21 (iii) A disclosure under this item may not be used for underwriting or
22 utilization review purposes;

23 (iv) A health care provider that discloses a medical record in
24 accordance with this item shall provide a notice consistent with the requirements of 45
25 C.F.R. § 164.520 specifying the information to be shared, with whom it will be shared, and
26 the specific types of uses and disclosures that the health care provider may make in
27 accordance with this item;

28 (v) The notice required by item (iv) of this item shall include an
29 opportunity for the individual to opt out of the sharing of the individual's medical record
30 with a carrier or an accountable care organization for the purposes identified in this item;
31 **[and]**

32 (vi) If a health care provider discloses medical information or medical
33 data to a carrier or accountable care organization through an infrastructure that provides
34 organizational and technical capabilities for the exchange of protected health information
35 among entities not under common ownership, the health care providers are subject to the
36 requirements of §§ 4–302.2 and 4–302.3 of this subtitle; **AND**

1 (VII) IF THE DISCLOSURE IS OF ~~A PROTECTED SERVICES RECORD~~
 2 ~~OR A PROTECTED MEDICATION RECORD~~ ABORTION CARE OR OTHER SENSITIVE
 3 HEALTH SERVICES INFORMATION AS DETERMINED BY THE SECRETARY UNDER §
 4 4-302.5(D) OF THIS SUBTITLE, THE DISCLOSURE IS SUBJECT TO THE
 5 ~~REQUIREMENTS FOR A PROTECTED SERVICES RECORD AND PROTECTED~~
 6 ~~MEDICATION RECORD UNDER § 4-302.5 OF THIS SUBTITLE; OR~~

7 ~~(12) SUBJECT TO THE REQUIREMENTS FOR A PROTECTED SERVICES~~
 8 ~~RECORD AND PROTECTED MEDICATION RECORD UNDER § 4 302.5 OF THIS~~
 9 ~~SUBTITLE, TO ANOTHER HEALTH CARE PROVIDER FOR THE SOLE PURPOSE OF~~
 10 ~~TREATING THE PATIENT FOR WHOM THE MEDICAL RECORD IS KEPT.~~

11 (c) (1) The disclosure of medical records under subsection (b)(10) of this
 12 section to a person that is not employed by or under contract with the Montgomery County
 13 Department of Health and Human Services shall be conducted in accordance with this
 14 subtitle.

15 (2) Under provisions of State law regarding confidentiality, the
 16 Montgomery County Department of Health and Human Services shall be considered to be
 17 one agency.

18 ~~4-300.~~

19 (a) ~~THIS SECTION DOES NOT APPLY TO A VIOLATION OF § 4-302.5 OF THIS~~
 20 ~~SUBTITLE.~~

21 ~~(B) If a health care provider knowingly refuses to disclose a medical record within~~
 22 ~~a reasonable time but no more than 21 working days after the date a person in interest~~
 23 ~~requests the disclosure, the health care provider is liable for actual damages.~~

24 ~~[(b)] (C) A health care provider may not refuse to disclose a medical record on~~
 25 ~~the request of a person in interest because of the failure of the person in interest to pay for~~
 26 ~~health care rendered by the health care provider.~~

27 ~~[(e)] (D) A health care provider or any other person is in violation of this subtitle~~
 28 ~~if the health care provider or any other person:~~

29 (1) ~~Requests or obtains a medical record under false pretenses or through~~
 30 ~~deception; or~~

31 (2) ~~Discloses a medical record in violation of this subtitle.~~

32 ~~[(d)] (E) Except as otherwise provided in subsection [(e)] (F) of this section, a~~
 33 ~~health care provider or any other person, including an officer or employee of a governmental~~
 34 ~~unit, who knowingly and willfully violates any provision of this subtitle is guilty of a~~
 35 ~~misdemeanor and on conviction is subject to a fine not exceeding \$1,000 for the first offense~~

~~and not exceeding \$5,000 for each subsequent conviction for a violation of any provision of this subtitle.~~

~~[(c)] (F) (1) A health care provider or any other person, including an officer or employee of a governmental unit, who knowingly and willfully requests or obtains a medical record under false pretenses or through deception or knowingly and willfully discloses a medical record in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to the following penalties:~~

~~(i) A fine not exceeding \$50,000, imprisonment for not more than 1 year, or both;~~

~~(ii) If the offense is committed under false pretenses, a fine not exceeding \$100,000, imprisonment for not more than 5 years, or both; and~~

~~(iii) If the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, a fine not exceeding \$250,000, imprisonment for not more than 10 years, or both.~~

~~(2) This subsection does not apply to an officer or employee of a governmental unit that is conducting a criminal investigation.~~

~~[(f)] (G) A health care provider or any other person who knowingly violates any provision of this subtitle is liable for actual damages.~~

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;

(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:

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

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

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

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

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

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

16 **(D) THE COMMISSION SHALL:**

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

18 **(2) MEET AT LEAST FOUR TIMES A YEAR.**

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

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

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

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

30 **(II) ORGANIZATIONS WITH EXPERTISE IN CONSUMER HEALTH**
31 **PRIVACY;**

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

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

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

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

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

18 **(I) THE COMMISSION; AND**

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

22 19-103.

23 (a) There is a Maryland Health Care Commission.

24 (b) The Commission is an independent commission that functions in the
25 Department.

26 (c) The purpose of the Commission is to:

27 (1) Develop health care cost containment strategies to help provide access
28 to appropriate quality health care services for all Marylanders, after consulting with the
29 Health Services Cost Review Commission;

30 (2) Promote the development of a health regulatory system that provides,
31 for all Marylanders, financial and geographic access to quality health care services at a
32 reasonable cost by:

1 (i) Advocating policies and systems to promote the efficient delivery
2 of and improved access to health care services; and

3 (ii) Enhancing the strengths of the current health care service
4 delivery and regulatory system;

5 (3) Facilitate the public disclosure of medical claims data for the
6 development of public policy;

7 (4) Establish and develop a medical care database on health care services
8 rendered by health care practitioners;

9 (5) Encourage the development of clinical resource management systems
10 to permit the comparison of costs between various treatment settings and the availability
11 of information to consumers, providers, and purchasers of health care services;

12 (6) In accordance with Title 15, Subtitle 12 of the Insurance Article,
13 develop a uniform set of effective benefits to be included in the Comprehensive Standard
14 Health Benefit Plan;

15 (7) Analyze the medical care database and provide, in aggregate form, an
16 annual report on the variations in costs associated with health care practitioners;

17 (8) Ensure utilization of the medical care database as a primary means to
18 compile data and information and annually report on trends and variances regarding fees
19 for service, cost of care, regional and national comparisons, and indications of malpractice
20 situations;

21 (9) Establish standards for the operation and licensing of medical care
22 electronic claims clearinghouses in Maryland;

23 (10) Reduce the costs of claims submission and the administration of claims
24 for health care practitioners and payors;

25 (11) Determine the cost of mandated health insurance services in the State
26 in accordance with Title 15, Subtitle 15 of the Insurance Article;

27 (12) Promote the availability of information to consumers on charges by
28 practitioners and reimbursements from payors; [and]

29 (13) Oversee and administer the Maryland Trauma Physician Services
30 Fund in conjunction with the Health Services Cost Review Commission; AND

31 **(14) ESTABLISH POLICIES AND STANDARDS TO PROTECT THE**
32 **CONFIDENTIALITY OF PATIENT AND HEALTH CARE PRACTITIONER INFORMATION**

1 RELATED TO LEGALLY PROTECTED HEALTH CARE AS DEFINED IN § 4-301 OF THIS
2 ARTICLE.

3 (d) The Commission shall coordinate the exercise of its functions with the
4 Department and the Health Services Cost Review Commission to ensure an integrated,
5 effective health care policy for the State.

6 ~~19-145.~~

7 (a) ~~(1) In this section the following words have the meanings indicated.~~

8 ~~(2) "Dispenser" means a person authorized by law to dispense, as defined~~
9 ~~in § 12-101 of the Health Occupations Article, a prescription drug to a patient or the~~
10 ~~patient's agent in the State.~~

11 ~~(3) "Noncontrolled prescription drug" means a prescription drug, as~~
12 ~~defined in § 21-201 of this article, that is not a controlled dangerous substance designated~~
13 ~~under Title 5, Subtitle 4 of the Criminal Law Article.~~

14 ~~(4) "State designated exchange" has the meaning stated in § 4-302.3 of this~~
15 ~~article.~~

16 (b) ~~The State designated exchange shall operate as a health data utility for the~~
17 ~~State.~~

18 (c) ~~The purposes of the health data utility include:~~

19 ~~(1) The collection, aggregation, and analysis of clinical information, public~~
20 ~~health data, and health administrative and operations data to assist the Department, local~~
21 ~~health departments, the Commission, and the Health Services Cost Review Commission in~~
22 ~~the evaluation of public health interventions and health equity;~~

23 ~~(2) The communication of data between public health officials and health~~
24 ~~care providers to advance disease control and health equity; and~~

25 ~~(3) The enhancement and acceleration of the interoperability of health~~
26 ~~information throughout the State.~~

27 ~~(d) [Dispensers] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS~~
28 ~~SECTION, EACH DISPENSER shall provide data to the State designated exchange.~~

29 ~~(E) (1) A DISPENSER MAY NOT SUBMIT INFORMATION ON MIFEPRISTONE,~~
30 ~~MISOPROSTOL, OR ANY MEDICATION USED FOR A MEDICAL ABORTION, AS~~
31 ~~DETERMINED BY THE SECRETARY, TO THE STATE DESIGNATED EXCHANGE.~~

~~(2) THE SECRETARY SHALL FOLLOW GUIDELINES OF THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, THE WORLD HEALTH ORGANIZATION, AND THE SOCIETY OF FAMILY PLANNING IN DETERMINING THE MEDICATIONS TO BE INCLUDED AMONG THE MEDICATIONS USED IN A MEDICAL ABORTION ABOUT WHICH A DISPENSER MAY NOT SUBMIT INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~[(c)] (F) (1) The purpose of this subsection is to:~~

~~(i) Authorize individuals and organizations involved in the treatment and care coordination of patients to access, as legally authorized, a patient's medication history, including medications prescribed for the patient; and~~

~~(ii) Assist health care providers, care managers, the Department, and local health departments to understand and promote matters of health equity and treatment efficacy.~~

~~(2) After dispensing a noncontrolled prescription drug OTHER THAN THE MEDICAL ABORTION MEDICATIONS DESCRIBED UNDER SUBSECTION (E) OF THIS SECTION, a dispenser shall submit prescription information to the State designated exchange.~~

~~(3) The prescription information shall be submitted:~~

~~(i) By electronic means;~~

~~(ii) Without unduly increasing the workload and expense on a dispenser;~~

~~(iii) In a manner that minimizes burden and duplication by being as compatible as possible with existing federal standards for data submission practices, including technology software of dispensers; and~~

~~(iv) As otherwise required by regulations adopted by the Commission.~~

~~(4) The State designated exchange may not impose any fees or other assessments on dispensers to support the operation of the exchange.~~

~~(5) The State designated exchange shall make prescription information submitted under this subsection available for purposes of treatment and care coordination of a patient.~~

~~[(f)] (G) The State designated exchange may provide data, as allowed by law, for public health purposes that may include:~~

1 ~~(1) Improving health equity through access to prescription medications,~~
2 ~~including for the treatment of infectious disease;~~

3 ~~(2) Assisting programs led by health care providers and the Department,~~
4 ~~local health departments, the Commission, and the Health Services Cost Review~~
5 ~~Commission to identify opportunities for quality improvement, including for stewardship~~
6 ~~of antibiotic medications; and~~

7 ~~(3) Conducting case investigations and related activities.~~

8 ~~[(g)](H) Information submitted to the State information exchange or provided~~
9 ~~by the State information exchange under this section shall be submitted or provided, to the~~
10 ~~extent practicable, in as near to real time as possible.~~

11 ~~[(h)](I) (1) The Commission, in consultation with appropriate stakeholders,~~
12 ~~shall adopt regulations to carry out this section.~~

13 ~~(2) The regulations shall take into account consumer perspective and~~
14 ~~include:~~

15 ~~(i) The specific data required to be provided under subsection (d) of~~
16 ~~this section;~~

17 ~~(ii) The specific prescription information required to be submitted~~
18 ~~under subsection [(c)](F) of this section;~~

19 ~~(iii) The time frame for submitting prescription information under~~
20 ~~subsection [(c)](F) of this section;~~

21 ~~(iv) The electronic means and manner by which prescription~~
22 ~~information is to be submitted under subsection [(c)](F) of this section;~~

23 ~~(v) Prescription information submission requirements that align~~
24 ~~with the data submission requirements on dispensers of monitored prescription drugs~~
25 ~~under Title 21, Subtitle 2A of this article; and~~

26 ~~(vi) Identification and necessary suppression of information related~~
27 ~~to providers or medications that are determined to have significant potential to cause harm.~~

28 ~~[(i)](J) (1) The State designated exchange shall establish a consumer~~
29 ~~advisory council to bring the perspectives of individuals and organizations with an interest~~
30 ~~in protecting consumers into the delivery of services provided by the State designated~~
31 ~~exchange.~~

32 ~~(2) In selecting members, the State designated exchange shall consider~~
33 ~~diversity of experience.~~

~~(3) The consumer advisory council established under paragraph (1) of this subsection shall:~~

~~(i) Consist of a minimum of six members, including at least four consumer representatives and two staff representatives, and maintain a ratio of consumer representatives to nonconsumer representatives of at least two to one;~~

~~(ii) Identify and report consumer privacy concerns to senior leadership of the State-designated exchange;~~

~~(iii) Advise on efforts to educate consumers on data exchange policies, including options for consumers to opt out of disclosure of protected health information;~~

~~(iv) Meet at least 3 times each year; and~~

~~(v) Adopt and maintain a charter to be posted online that includes the purpose, members, and meeting schedule of the consumer advisory council.~~

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.

1 (b) Except as provided in subsection (c) of this section **AND NOTWITHSTANDING**
2 **§ 31-116(A) OF THIS ARTICLE**, an entity subject to this section shall:

3 (1) cover abortion care services without:

4 (i) a deductible, coinsurance, copayment, or any other cost-sharing
5 requirement; and

6 (ii) restrictions that are inconsistent with the protected rights under
7 Title 20, Subtitle 2 of the Health – General Article; and

8 (2) provide information to consumers about abortion care coverage using
9 the terminology “abortion care” to describe coverage.

10 (c) If the Commissioner determines that enforcement of this section may
11 adversely affect the allocation of federal funds to the State, the Commissioner may grant
12 an exemption to the requirements of this section to the minimum extent necessary to
13 ensure the continued receipt of federal funds.

14 31-116.

15 (a) The essential health benefits required under § 1302(a) of the Affordable Care
16 Act:

17 (1) shall be the benefits in the State benchmark plan, selected in
18 accordance with this section; and

19 (2) notwithstanding any other benefits mandated by State law, shall be the
20 benefits required in:

21 (i) subject to subsection (f) of this section, all individual health
22 benefit plans and health benefit plans offered to small employers, except for grandfathered
23 health plans, as defined in the Affordable Care Act, offered outside the Exchange; and

24 (ii) subject to § 31-115(c) of this subtitle, all qualified health plans
25 offered in the Exchange.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Health shall
27 adopt emergency regulations within 90 days after the effective date of this Act to identify
28 diagnostic, procedure, medication, and related codes for abortion care in accordance with §
29 4-302.5 of the Health – General Article, as enacted by Section 1 of this Act.

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

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

7 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
 8 ~~October~~ June 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.