

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1251 (Delegate Toles, *et al.*)
 Health and Government Operations

Health Care Facilities and Medical Professional Liability Insurers - Obstetric Services Policies (Doula and Birth Policy Transparency Act)

This bill requires a “health care facility” (a hospital or freestanding ambulatory care facility that provides obstetric care) to adopt a specified obstetric services policy and provide evidence to the Maryland Department of Health (MDH) that the facility has adopted such a policy by January 1, 2026 (and whenever the policy is updated). MDH must adopt regulations to carry out the bill, including establishing the form and manner in which a health care facility may prove the adoption of a compliant policy. On request, an insurer that issues or delivers medical professional liability insurance policies in the State must provide MDH with information regarding the insurer’s policy related to coverage of obstetric services, including coverage for a vaginal birth after cesarean.

Fiscal Summary

State Effect: MDH general fund expenditures increase by \$90,800 in FY 2026 for staff, as discussed below. Future years reflect annualization and ongoing operating costs. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	90,800	108,400	113,200	118,200	123,300
Net Effect	(\$90,800)	(\$108,400)	(\$113,200)	(\$118,200)	(\$123,300)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A health care facility's obstetric services policy must:

- allow every birthing parent to have a certified doula present during birth, in addition to any authorized guests;
- prioritize newborn bonding with the family of the newborn;
- prohibit the health care facility from using significant medical intervention in the birthing process without the informed consent of the birthing parent, including (1) the administration of a medication that will induce labor; (2) a cesarean section; and (3) use of forceps;
- detail the health care facility's process for receiving a birthing parent's medical information from a specified health care provider who has provided services to the birthing person, which must include a process for transferring medical records when the birthing parent was receiving services in a home birth setting; and
- establish a process to transfer and receive pregnant persons across the health care facility's levels of care within the facility's capacity and capability.

If a health care facility is established after January 1, 2026, on establishment, the facility must provide evidence to MDH that a policy has been adopted.

Current Law: The Office of Health Care Quality (OHCQ) within MDH oversees and licenses health care facilities in the State. To ensure compliance with these rules and regulations, OHCQ inspects each health care facility, including freestanding ambulatory care facilities and hospitals. In general, OHCQ inspects facilities for which a license is sought and periodically after a license has been issued. MDH submits an annual report to the General Assembly regarding the inspections conducted during the immediately preceding year.

“Hospital” means an institution that (1) has a group of at least five physicians who are organized as medical staff for the institution; (2) maintains facilities to provide, under the supervision of medical staff, diagnostic and treatment services for two or more unrelated individuals; and (3) admits or retains the individuals for overnight care.

“Freestanding ambulatory care facility” means (1) an ambulatory surgical facility; (2) a freestanding endoscopy facility; (3) a freestanding facility utilizing major medical equipment; (4) a kidney dialysis center; or (5) a freestanding birthing center. “Freestanding birthing center” means a facility that provides nurse midwife services. “Freestanding birthing center” does not include a hospital or a private residence of the mother.

Medicaid Doula Services

“Certified doula” means a trained *nonmedical* professional who provides continuous physical, emotional, and informational support to the birthing parent throughout the prenatal, labor, and postpartum periods who has received a certification to perform doula services approved by Medicaid. A doula must be certified by specified organizations and present proof to MDH of completion of the associated certification before providing doula services. To participate, a provider must (1) meet specified regulatory requirements to participate in Medicaid; (2) maintain up-to-date certification; and (3) hold adequate liability insurance.

Doula services are subject to the following limitations: (1) one licensed health care professional (an obstetrician-gynecologist, a family medicine practitioner, or a certified nurse midwife) must be present while doula services are provided during labor and delivery; (2) doula services provided during labor and delivery may not be delivered via telehealth; (3) payment for doula services must be limited to direct services provided and expenses may not be reimbursed for items related to other specified expenses; and (4) multiple visits are not allowed in the same day, with the exception of a prenatal visit that occurs before a labor and delivery visit in the same day, or a labor and delivery visit that occurs before a postpartum doula visit in the same day.

Medical Professional Liability Insurance

Medical professional liability insurance (also known as medical malpractice insurance) provides coverage against damages due to medical injury arising out of the performance of professional services rendered or which should have been rendered by a health care professional.

Chapter 770 of 2017, among other things, required licensed physicians to (1) provide written notification regarding professional liability insurance to patients; (2) maintain a signed written notification in the patient’s records; and (3) conspicuously post information regarding professional liability insurance. Chapters 869 and 870 of 2024 required each advanced practice registered nurse (APRN) practicing in the State to notify a patient in writing if (1) they do not maintain professional liability insurance coverage or (2) their professional liability insurance coverage has lapsed for any period of time and has not been renewed. Each APRN who does not maintain professional liability insurance coverage must post such information in a conspicuous location in their place of practice.

State Expenditures: MDH advises that the department currently receives complaints regarding health care facilities that prevent doulas from being present during labor and provide medications that induce labor without patient consent. Under the bill, MDH

anticipates an increase in patient complaints, as hospitals or freestanding ambulatory care facilities must adopt an obstetric services policy by January 1, 2026.

Thus, OHCQ general fund expenditures increase by \$90,756 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring one health facilities nurse surveyor to (1) promulgate regulations and develop a process for specified health care facilities to submit the adopted obstetrics services policy to MDH; (2) ensure specified health care facilities have provided appropriate evidence of an adopted obstetric services policy to MDH; and (3) complete investigations into complaints that specified health care facilities are not adhering to the adopted obstetric services policy. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$83,387
Operating Expenses	<u>7,369</u>
Total FY 2026 State Expenditures	\$90,756

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Comments: As of February 1, 2025, there are no licensed freestanding birthing centers in the State.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Maryland Health Care Alternative Dispute Resolution Office; Maryland Insurance Administration; Department of Legislative Services

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rh/jc

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