

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1251

(Delegate Toles, *et al.*)

Health and Government Operations

Finance

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

This bill requires a hospital that provides obstetric care to adopt a “doula” policy, an informed consent policy for “significant medical intervention” for the birthing parent, and a transfer acceptance policy, as specified. Each hospital must provide evidence to the Maryland Department of Health (MDH) that the hospital has adopted a policy by January 1, 2026 (and whenever the policies are updated). MDH must adopt regulations to carry out the bill, including establishing the form and manner in which a hospital may prove the adoption of a compliant policy. MDH must make the policies provided by a hospital available to the public on request in a manner determined by the department. The bill does not prohibit a hospital from setting a policy that restricts the number of doulas or authorized guests. 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: “Doula” means a nonmedical professional who provides continuous physical, emotional, and informational support to the birthing parent throughout the prenatal, labor, and postpartum periods.

“Significant medical intervention” means a cesarean section, induction of labor, augmentation of labor, operative vaginal delivery, or episiotomy.

A hospital must adopt and provide evidence to MDH that the hospital has:

- a doula policy that allows every birthing parent to have at least one doula present during birth, in addition to authorized guests;
- an informed consent policy for significant medical intervention for the birthing parent; and
- a transfer acceptance policy that includes the hospital’s process for receiving (1) a patient from a health care practitioner who had provided services to a birthing parent in a home birth setting; (2) a birthing parent’s or newborn’s medical information from the home birth provider; and (3) a transfer from a licensed direct-entry midwife that is consistent with specified requirements.

If a hospital is established after January 1, 2026, on establishment, the hospital must provide evidence to MDH that the policies have 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.

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.

Licensed Direct-entry Midwife Transfer

In general, an individual must be licensed as a certified nurse-midwife by the State Board of Nursing (MBON) to practice nurse midwifery in the State or licensed as a direct-entry midwife by MBON to practice direct-entry midwifery in the State. Direct-entry midwifery refers to an educational path that does not require prior nursing training to enter the profession.

A licensed direct-entry midwife must arrange immediate emergency transfer to a hospital if the patient or newborn is determined to have specified conditions during labor, delivery, or the immediate postpartum period, including if the newborn has obvious congenital anomalies. A licensed direct-entry midwife must develop a general written plan for their practice for (1) emergency transfer of a patient, newborn, or both; (2) transport of a newborn to a newborn nursery or neonatal intensive care nursery; and (3) transport of a patient to an appropriate hospital with a labor and delivery unit. The plan must be provided to any hospital identified in the plan. On arrival at the hospital, the midwife must provide (1) to the staff of the hospital, a specified standard transfer form and the complete medical records of the patient and (2) to the accepting health care practitioner, a verbal summary of the care provided to the patient by the licensed direct-entry midwife.

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 hospitals 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 must adopt a doula policy, an informed consent policy, and a transfer acceptance 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 hospitals to submit the adopted policies to MDH; (2) ensure hospitals have provided appropriate evidence of the adopted policies to MDH; and (3) complete investigations into complaints that specified hospitals are not adhering to the adopted policies. 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 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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Analysis by: Amberly E. Holcomb

Direct Inquiries to:
(410) 946-5510
(301) 970-5510