

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1045

(Delegate Pena-Melnyk, *et al.*)

Health and Government Operations

Finance

Health Insurance, Family Planning Services, and Confidentiality of Medical Records - Consumer Protections - Updates

This bill updates references to federal law related to family planning services under the Family Planning Program in the Maryland Department of Health (MDH). The bill alters the definitions of “legally protected health care” and “sensitive health services” to include gender-affirming care with respect to disclosure of information regarding sensitive health services. The bill specifies that the Insurance Commissioner and the Maryland Commission on Civil Rights (MCCR) have concurrent jurisdiction to enforce consumer protection provisions related to discrimination in health insurance. The Commissioner may adopt regulations necessary to carry out enforcement of such provisions, consistent with federal statute, rules, and guidance in effect on December 31, 2024. The bill also updates references to federal rules and guidance relating to health insurance consumer protection provisions. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: The bill does not substantively change State activities or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Family Planning Program

Chapters 28 and 810 of 2017 established a Family Planning Program in MDH to ensure the continuity of family planning services in the State. Program funding must be in addition

to any funding applied by MDH, before December 31, 2016, to the Maintenance of Effort (MOE) requirement for federal funding under the Title X Family Planning Program. MDH may not accept any federal funding under Title X if that program (1) excludes family planning providers and (2) does not require such providers to provide a broad range of acceptable and effective medically approved family planning methods and services.

Statute defines “family planning providers” under the program to mean providers of services (1) funded under Title X of the federal Public Health Service Act as of December 31, 2016, and (2) that lost eligibility for Title X funding as a result of the termination of federal funding for providers because of the scope of services offered by the providers or the scope of services for which the providers offer referrals.

Under the bill, the definition of “family planning providers” is updated to (1) reflect providers of services funded under Title X of the federal Public Health Service Act as of December 31, 2024.

The bill also updates the definition of “family planning services” to reflect services provided under Title X of the federal Public Health Service Act as of December 31, 2024, and specifies that program funding must be in addition to any funding applied by MDH, before December 31, 2024, to the MOE requirement for federal funding under the Title X Family Planning Program.

Legally Protected Health Care and Sensitive Health Services

Under § 4-301 of the Health-General Article, “legally protected health care” means all reproductive health services, medications, and supplies related to (1) the provision of abortion care and (2) other sensitive health services as determined by the Secretary of Health based on the recommendations of the Protected Health Care Commission. “Sensitive health services” includes reproductive health services other than abortion care.

Chapters 246 and 247 of 2023 (the Reproductive Health Protection Act) establish additional protections for information related to “legally protected health care” when that information is sought by another state. The Acts also prohibit (1) a health occupations board from taking specified disciplinary actions related to the provision of legally protected health care; (2) a medical professional liability insurer from taking specified adverse actions against a practitioner related to the practice of legally protected health care; and (3) specified State entities, agents, and employees from participating in any interstate investigation seeking to impose specified liabilities or sanctions against a person for activity related to legally protected health care (with limited exception).

Chapters 248 and 249 of 2023 prohibit the disclosure of mifepristone data or the diagnosis, procedure, medication, or related codes for abortion care and other sensitive health services

by a health information exchange, electronic health network, or health care provider. A person who knowingly violates this prohibition is guilty of a misdemeanor and subject to a fine of up to \$10,000 per day.

The bill alters the definition of “legally protected health care” to mean all *sensitive* health services, medications, and supplies related to (1) the provision of abortion care and (2) *reproductive health and other* sensitive health services as determined by the Secretary based on the recommendations of the Protected Health Care Commission. The bill also alters the definition of “sensitive health services” to include (1) reproductive health services other than abortion care and (2) *gender-affirming care*.

Carrier Prohibition Against Discrimination

Section 15-1A-22 of the Insurance Article prohibits a carrier from refusing, withholding, or denying coverage under a health benefit plan to, or otherwise discriminating against, any individual on the grounds of race, sex, color, creed, national origin, marital status, sexual orientation, age, gender identity, or disability. MCCR must enforce these provisions. These prohibitions do not apply to limitations or restrictions related to age or marital status that are specifically authorized or required under the Insurance Article to limit or restrict eligibility for insurance coverage or benefits.

Under the bill, the commission has concurrent jurisdiction with MCCR for the enforcement of these provisions.

Grandfathered Plans

Section 15-1A-01 of the Insurance Article defines a “grandfathered plan” as a health benefit plan that meets the criteria established under 45 C.F.R. § 147.140 and any corresponding federal rules or guidance as those provisions were in effect as of December 1, 2023, or meets the criteria of specified regulations adopted by the Commissioner.

Under the bill, the date of any corresponding federal rules or guidance as those provisions were in effect is changed to December 31, 2024.

Regulations Regarding Consumer Protection Provisions

Throughout Title 15, Subtitle 1A of the Insurance Article, various provisions require the Commissioner to adopt regulations regarding consumer protections that must be consistent with specified federal law and any corresponding federal rules and guidance as those provisions were in effect either as of December 1, 2019, or as of December 1, 2023.

Under the bill, the date for corresponding federal rules and guidance references are updated to December 31, 2024.

Additional Information

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

Designated Cross File: SB 940 (Senator Hayes) - Finance.

Information Source(s): Maryland Commission on Civil Rights; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

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Analysis by: Jennifer B. Chasse

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