



Opposition Statement SB84/HB135
Pharmacists – Administration of Self-Administered Medications and
Maintenance Injectable Medications

By Laura Bogley, JD
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We Oppose SB84 as Written

On behalf of our chapters and members across the state, we respectfully object to SB84/HB135 as written. This bill could expand public funding for abortion and abortion providers. We object to any state mandate that requires taxpayers, employers or insurance carriers to provide coverage for abortion in order to do business with or within the state. Such government mandates are a violation of our Constitutional freedoms and natural rights, including the right to life and freedom of speech, assembly and religion.

No “D-I-Y” Abortion Pills through Pharmacists

While “telehealth” is a worthwhile goal for the state of Maryland, “teledeath” must be expressly excluded from all telehealth policy and public funding.

As written, this bill could commit taxpayer funds to compensate pharmacists for their participation in the distribution chain of lethal abortion pills for SELF ADMINISTRATION. The bill could authorize reimbursements to abortion pill providers through the Maryland Medical Assistance Program and the Maryland Children’s Health Program, which are the primary vehicles for reimbursements to abortion providers in Maryland. Pharmacists already receive Medicaid reimbursements for distributing contraceptives as a result of similar legislation in 2017.

We all should agree that we must put patient safety before abortion politics and profits. But the abortion industry is pressuring the FDA to remove important health and safety restrictions on the distribution and use of abortion pills. They want to expand telabortion to distribute more abortion pills more easily, putting profits before patients. They brazenly promote abortion pills as “DIY” abortions, and leave women and girls to fend for themselves.

Adopt FDA Safeguards for Women

We respectfully recommend that the State of Maryland put patients first and adopt the current FDA guidelines that require the distribution and use of abortion pills to be under the supervision of a qualified healthcare provider because of the drug’s potential for serious health complications including, but not limited to, severe uterine hemorrhage, viral infections, pelvic inflammatory disease, loss of fertility and death. ***HB1198, introduced this session, would implement these safeguards.***

We ask for your help in protecting the health and safety of Marylanders by restricting the categories of drugs that pharmacists and others may distribute for self-administration to specifically exclude those drugs commonly used to terminate life through Chemical Abortion, including mifepristone and misoprostol, among others.

Pregnancy is not a Disease

Abortion is not healthcare. It is violence and brutality that ends the lives of unborn children through suction, dismemberment or chemical poisoning. The fact that 85% of OB-GYNs in a representative

national survey do not perform abortions on their patients is glaring evidence that abortion is not an essential part of women's healthcare. Women have better options for comprehensive health care. There are 14 federally qualifying health care centers for every Planned Parenthood in Maryland. Abortion has a disproportionate impact on Black Americans who have long been targeted by the abortion industry for eugenics purposes. As a result abortion is the leading cause of death of Black Americans, more than gun violence and all other causes combined.

No public funding for abortions

Taxpayers should not be forced to fund elective abortions, which make up the vast majority of abortions performed in Maryland. State funding for abortion on demand with taxpayer funds is in direct conflict with the will of the people. A 2020 Marist poll showed that 58% of Americans, both "pro-life" and "pro-choice" oppose the use of tax dollars to pay for a woman's abortion. Never has more than 40% of the American public supported taxpayer funding of abortion regardless of the context or way in which the question is asked.

Love them both

This bill stands in conflict with the fact that 83% of Americans polled favor laws that protect both the lives of women and unborn children. Public funds instead should be prioritized to fund health and family planning services which have the objective of saving the lives of both mother and children, including programs for improving maternal health and birth and delivery outcomes, well baby care, parenting classes, foster care reform and affordable adoption programs.

Funding restrictions are constitutional

The Supreme Court has held that the alleged constitutional "right" to an abortion "*implies no limitation on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds.*" When a challenge to the constitutionality of the Hyde Amendment reached the Supreme Court in 1980 in the case of *Harris v. McRae*, the Court ruled that the government may distinguish between abortion and other procedures in funding decisions -- noting that "*no other procedure involves the purposeful termination of a potential life*" -- and affirmed that *Roe v. Wade* had created a limitation on government, not a government funding entitlement.

For these reasons we respectfully ask that you preserve the good intentions of this bill by amending out non-physician distribution of chemical abortion pills and rejecting taxpayer reimbursements for abortion pills, otherwise we ask that you issue an unfavorable report. Thank you for your consideration for the health and safety of Maryland women and girls and the life of all human beings, born and preborn.

MDRTL-Information Request HB135/SB84

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Thu, Feb 11, 2021 at 3:08 PM

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Dear Delegate Kelly,

We appreciated the opportunity to speak today on HB135/SB84 in HGO subcommittee.

Observance of free speech and respect for differing opinions are among the highest imperatives of representative government.

Our concern remains the same about the application of this bill to Medicaid reimbursements for the remote distribution of chemical abortion pills mifepristone and misoprostol. We want to make sure that members of the HGO committee receive accurate information about abortion funding.

On behalf of our members in Montgomery County and across the state, we would like more information from you to support your public statement that House Bill 135 will not apply to the reimbursement of abortion providers.

We disagree with the formal actions of Attorney General Brian Frosh and his commitment of taxpayer funds to join in suits to force the Food and Drug Administration to remove important safeguards on the remote distribution of abortion pills, which will enable non-physicians, including pharmacists, to distribute abortion pills for self administration. However, we do agree with the statement made by the Assistant Attorney General that this bill will authorize Medicaid reimbursements to pharmacists to the "same extent" as it already covers other providers.

The State of Maryland reports that taxpayers reimburse abortion providers through MDH Maryland Medical Programs Administration somewhere in the amount of \$6-16 million each year.

Maryland Medical Assistance Program Pays for Abortions

The Assistant AG writes "*Because the Programs [Maryland Medical Assistance Program and the Maryland Children's Health Program] do not cover abortion services in any form when rendered by any provider, this does not require (or permit) them to cover abortion services when provided by a pharmacist, because the "same extent" to which they cover the services when provided by other providers is zero.*"

But according to the Maryland Department of Legislative Services, in their *Analysis of the FY2021 Maryland Executive Budget, 2020*, (refer to pages 60 and 61) as well as

budget analyses they have provided since 1980/2000, the Maryland Medical Assistance Program and the MCHP do in fact reimburse abortion providers through state Medicaid funds. (This already includes the in-person distribution of abortion pills by medical providers. Once FDA restrictions on teleabortions are removed, pharmacists also will be positioned to distribute abortion pills through remote prescription. This change most likely will occur before October 1, 2021.)

"Medical Assistance Expenditures on Abortion Language attached to the Medicaid budget since 1979 authorizes the use of State funds to pay for abortions under specific circumstances. Specifically, a physician or surgeon must certify that, based on his or her professional opinion, the procedure is necessary. Similar language has been attached to the appropriation for MCHP since its advent in fiscal 1999. Women eligible for Medicaid solely due to a pregnancy do not currently qualify for a State-funded abortion. Exhibit 29 provides a summary of the number and cost of abortions by service provider in fiscal 2017 through 2019. Exhibit 30 indicates the reasons abortions were performed in fiscal 2019 according to the restrictions in the State budget bill."

Analysis of the FY2021 Maryland Executive Budget, 2020, (pages 60 and 61)

According to state exhibits #29 and #30, in 2019 alone, Maryland taxpayers through the Maryland Medical Assistance program, were forced to pay at least \$6 million for 9,660 abortions, although some reimbursement filings remained pending. 9,540 of those abortions were elective and zero (0) were for rape, incest or life of the mother.

Family Planning Includes Subsidies to Abortion Businesses

You also may be interested to read on **page 6** about the intermingling of funds through the Medical Care Programs Administration:

"Program Description - The Medical Care Programs Administration (MCPA), a unit of the Maryland Department of Health (MDH), is responsible for administering the Medical Assistance Program (Medicaid), the **Maryland Children's Health Program (MCHP), the **Family Planning Program**, the Kidney Disease Program (KDP), the Employed Individuals with Disabilities Program (EID), and the Senior Prescription Drug Assistance Program (SPDAP). MCPA also oversees expenditures for fee-for-service (FFS) Medicaid-eligible community behavioral health services for Medicaid-eligible recipients. However, for the purpose of this budget analysis, that funding is excluded from this discussion and is included in the discussion of funding under the Behavioral Health Administration. "**

(Analysis of the FY2021 Maryland Executive Budget, 2020, (page 6)

Of course in 2019 democrats shifted the burden to Maryland taxpayers to subsidize abortion providers for family planning providers that refused to separate their abortion business in order to qualify for federal family planning funding under Title X. Maryland taxpayers were forced to bail them out to the tune of at least **\$3.2 million** increasing each year for a total of \$10 million a year spent through the Maryland Family Planning Program in 2020. Once an abortion provider receives those funds, there is no oversight to ensure that those funds do not benefit, promote or expand their abortion business. They may use family planning funds to cover abortion operational costs including facilities, rent, utilities, equipment, even

personnel.

To further support your statement, please provide data regarding disposition of both MCHP and Family Planning Program funds, including which family planning providers receive payment and the amounts they receive or otherwise advise if we should submit a public information request for these important metrics.

Federal Title X Funding - It will be the imperative of the state in observing their fiduciary duty to the taxpayers, to ensure that "family planning" providers aren't authorized to "double dip" and keep the state funding even now that federal funding is being restored. It will be important to monitor whether the state will continue to waive those federal funds and if so, whether the state funding will be restored to the operating budget or codified as a permanent budget allocation.

Delegate Kelly, we appreciate your written response and any information you may have that would clarify your statement or otherwise refute the Medicaid funding of abortion information published by the State of Maryland since 1980. If this information is incorrect, we would expect the State to issue a correction.

We will continue to seek amendment in the House and the Senate to preserve the otherwise good intentions of the bill.

Thank you.

Laura

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