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Planned Parenthood of Maryland

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Senate Finance Committee
Senate Bill 890 - Abortion Care Access Act
February 23, 2022
Support

Planned Parenthood of Maryland strongly supports *Senate Bill 890 – Abortion Care Access Act*. The bill improves access to abortion care by removing outdated restrictions on practice and supporting the training of more providers. Maryland does not have a sufficient number of abortion providers today, and the situation will worsen as abortion access continues to be restricted across the country.

We also support the bill because it recognizes that abortion care is health care. We support this bill because it ensures that abortion care is covered, whether through a private plan or Medicaid. Access to abortion care should not depend on insurance status.

What is the State of Roe v. Wade?

In December 2021, the U.S. Supreme Court heard the case of *Jackson Women's Health Organization v Dobbs* about a 15-week abortion ban in Mississippi. In the state's brief to the Supreme Court, Mississippi Attorney General Lynn Fitch made clear the state's intent was to overturn Roe in stating that, "*The Constitution does not protect a right to abortion.*[i]" All the legal predictions are that the Court's decision in Dobbs will severely erode abortion as a constitutionally protected right. If some tenants of Roe survive the Dobbs case, there are at least two dozen other cases designed to overturn Roe v Wade in the Supreme Court pipeline.

The U.S. is on the brink of a national crises in terms of abortion care access. Twenty-six states are poised to ban or severely restrict abortion which would leave 36 million individuals without access to abortion care in their own states.

What Does the Dobbs decision mean for Maryland?

With the implementation of SB 8 in Texas, we have been given a sobering preview on abortion access after the Dobbs decision. A month after SB 8 went into effect, the number of abortions in Texas dropped by 50%. Individuals who were able to go out-of-state traveled hundreds of miles for services, sometimes even thousands as we have seen individuals from Texas at Planned Parenthood of Maryland. *The states that surround Texas were overwhelmed by requests for abortion care appointments – increasing waiting times for both in-state and out-of-state patients to as long as 19 days in Louisiana , 20 days in New Mexico, and 23 days in Oklahoma.*[ii]

Maryland is already the worst state for abortion access geographically, when we are compared to other East Coast states with similar abortion rights protections (see attached map). Maine, the most rural state on the East Coast, has providers in 69% of its counties which is the exact opposite of Maryland where 71% of counties do not have a single abortion provider.[iii]

As we know from the Texas experience, when one state bans abortion, the impact is felt in the surrounding states and throughout the region. With 26 states poised to ban or severely limit access, the scale of the abortion access crisis could be immense, particularly in states, like Maryland, already facing access issues. When Marylanders live outside of the Baltimore-Washington corridor, they usually have to travel to obtain abortion care. This situation can be immensely challenging for those facing limited resources as they have to arrange for transportation, time off of work, and child care. After the Dobbs decision, they could very likely face the additional barrier of waiting times for services.

How does the Abortion Care Access Act help Marylanders?

The Abortion Care Access Act proposes traditional public health strategies – recognizing advanced practice clinicians and expanding clinical training opportunities - used to address access issues for other types of health care services:

1) **Advanced Practice Clinicians:** When facing a health care workforce shortage – whether in primary care, prenatal services, or maternity care – Maryland has turned to utilizing advance practice clinicians such as nurse practitioners, nurse midwives, licensed certified midwives, or physician assistants.

   Maryland is a forward-thinking state in terms of recognizing advance practice clinicians, yet Maryland is behind 14 other states in recognizing that these practitioner are also able to provide both medication and in-office procedural abortion care.

   Abortion care is within the existing scope of practice today for nurse practitioners, nurse-midwives, licensed certified midwives, and physician assistants. However, these practitioners are restricted because Health General Health General §20–208 only allows licensed physicians to perform abortions. Maryland made some progress when Attorney General Frosh issued a

2020 opinion that recognized nurse practitioners, nurse-midwives, and physician assistants could provide medication abortion. The Abortion Care Access Act would codify the findings of the Attorney General, making it permanent, and also remove the restrictions on advanced practice clinicians providing procedural care. To accomplish this, the bill removes the physician-only restriction and replaces it with recognizing qualified providers who are 1) licensed or certified or otherwise authorized to provide care in Maryland (e.g. a licensure compact); and 2) have abortion care within their scope of practice.

2) **Abortion Care Clinical Training Program:** More health care practitioners would offer abortion care if they had ongoing opportunities for training. Those opportunities are shrinking, especially for practitioners educated in states like Texas where abortion is banned or severely restricted. Some of these practitioners may move to Maryland; and they might be in the position to provide abortion care if they were supported with clinical training. The Abortion Care Access Act would address this issue by establishing an Abortion Care Clinical Training Program. With $3.5 million in annual funding, the training program:

   - Support community-based, hospital-based, and continuing education programs. This would support clinicians providing abortion care in a range of clinical settings with the goal of better integrating abortion care in the health care system throughout Maryland. Abortion care is health care, but the political landscape often makes integration into a range of settings more difficult; and
   - Support diversifying the abortion care provider community to ensure they reflect the racial and ethnic diversity of the communities they serve. Abortion care training would focus on the principle of culturally congruent care – meaning providers are aware and inclusive of their patients' cultural values, beliefs, and practices.

3) Ensuring abortion care coverage in private insurance works for Marylanders: Planned Parenthood of Maryland noticed a pattern with our patients with private insurance. Even though abortion care is often covered by private plans, patients sometimes have to pay significant out-of-pocket costs to meet deductible or cost-sharing requirements. This financial burden can cause distress for our patients and delay care while they gather resources.

To understand abortion coverage for state-regulated plans, we engaged a consultant who reviewed consumer-facing documents of qualified health plans under the Maryland Health Benefit Exchange. The review found that qualified health plans generally cover abortion care, but commonly enrollees had deductible and cost-sharing requirements. The review also found that abortion care coverage information was often confusing and did not use standard terminology to describe abortion care.

We also reviewed the peer-reviewed research about abortion coverage and out-of-pocket costs. In a 2014 study of the impact of out-of-pocket costs for abortion care, 25% of patients with private insurance had out-of-pocket costs of $200 or more. Fifty-four percent of patients, including those with private insurance, delayed care because to obtain the resources needed to cover out-of-pocket costs. [iv] Another study found that 29% of insured individuals had to rely on resources from others, most commonly the man involved with the pregnancy, to cover-out-of-pocket costs.[v]

Based on our research and the experiences of the provider community, we worked with the bill sponsor to identify policy changes that would make abortion coverage in private insurance more effective. We were very concerned with the researched findings that confirmed our experience as providers – individuals delay abortion care when having to identify the resources needed to meet cost-sharing and deductible requirements. We would note that individuals seeking abortion services may be younger, healthier, and less likely to have met their deductible requirements.

The bill includes the following primary provisions regarding private insurance:

- **Requires state-regulated private plans to cover abortions care**. Maryland law requires coverage of contraception, certain infertility treatment services, and maternity care. The bill would ensure that insurance covers all pregnancy options. There are several exemptions:
  - religious organizations utilizing the existing State exemption for Maryland's contraceptive coverage mandate;
  - one of two multi-state plans as required under the Affordable Care Act; and
  - high-deductible health plans with health savings accounts because of IRS rule
- **Requires abortion care coverage to be without cost-sharing or deductible requirements**; and

- **Requires the consistent use of terminology to describe "abortion care" coverage to consumers.**

4) **Providing Equity in Coverage for Medicaid:** The bill requires Medicaid to cover abortion care to be covered in the same manner as state-regulated plans. This means Marylanders, whether covered through private insurance or Medicaid, would have equitable coverage.

The bill's Medicaid provision would also eliminate outdated and stigmatizing policies currently enshrined in the annual budget bill. The annual budget bill language was developed in 1979, just a few years after the Hyde Amendment, and there have been no substantial changes to the language in 40 years.

The outdated and stigmatizing provisions include (see attached Medicaid form):

- A requirement that rape and incest survivors need to file a policy or social service agency report to get abortion coverage;
- Except for survivors of rape or incest, a requirement that individuals have a medical justification related to physical health, mental health, or fetal abnormality. There is no coverage for individuals who are choosing abortion care because it is the best option for their circumstances; and
- A requirement that a physician certify the individual's health condition. This has not been updated to reflect the Attorney General Frosh's opinion from 2020 that nurse practitioners, nurse-midwives, and physician assistants may provide medication abortion.
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5) **Closing a Subsidy Loophole in the Young Adult Subsidy Program:** If private health plans cover abortion, federal law requires insurers to charge a minimum of $1 a month for abortion coverage and keep the premium funds in segregated accounts. Implementing this requirement can be complicated, especially for qualified health plans and health benefit exchanges because federal subsidies cannot be used to cover the $1 monthly premium.

Some very low-income individuals have the entire cost of their premiums, except for $1 a month, covered by federal subsides. Paying the $1 monthly premium may not be affordable; or even if it is affordable, it poses a significant administrative burden on both the insurers individual and the insurer. If individuals do not make this $1 payment, they may not complete their initial enrollment and they may be at risk for disenrollment under certain circumstances.

California just implemented an innovative program to address this $1 monthly gap for those who would otherwise have their premiums covered entirely by federal subsidies. The Governor included it in the 2021 budget because research demonstrated that zero-dollar coverage would increase enrollment among very low-income individuals.[vi]

The bill proposes to model the California program in Maryland's Young Adult Subsidy Program. The Maryland Health Benefit Exchange would study and report if the "last dollar coverage" initiative was successful in supporting more people in enrolling and staying in coverage. If successful, it could be extended to other low-income adults covered through qualified health plans.

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Conclusion

Thank you for your consideration of this legislation. Maryland provides the legal right to an abortion, but a right is not the same as access. Maryland has made significant progress in expanding access to primary care, prenatal care, and postpartum services. The Abortion Care Access Act uses the same strategies to ensure there are a sufficient number of abortion care providers to meet the needs of Marylanders and that insurance coverage, whether private plans or Medicaid, is adequate. We ask for a favorable report. If we can provide any additional information, please contact Robyn Elliott at reliott@policypartners.net.

[i] https://www.supremecourt.gov/DocketPDF/19/19-1392/184703/20210722161332385_19-1392BriefForPetitioners.pdf

[ii] https://sites.utexas.edu/txpep/files/2021/10/initial-impacts-SB8-TxPEP-brief.pdf

[iii] https://www.guttmacher.org/sites/default/files/report_pdf/abortion-incidence-service-availability-us-2017.pdf

[iv] Roberts et al. Out-of-Pocket Costs and Insurance Coverage for Abortion in the United States. Women's Health Issues Journal. January 2014.

[v] Jones et al. At What Cost? Payment for Abortion Care by U.S. Women. Women's Health Issues Journal. March 2013.

[vi] Drake, Colman and Anderson, David. Terminating Cost-Sharing Reduction Subsidy Payments: The Impact of Marketplace Zero-Dollar Premium Plans on Enrollment. Health Affairs, No 1, 2020.

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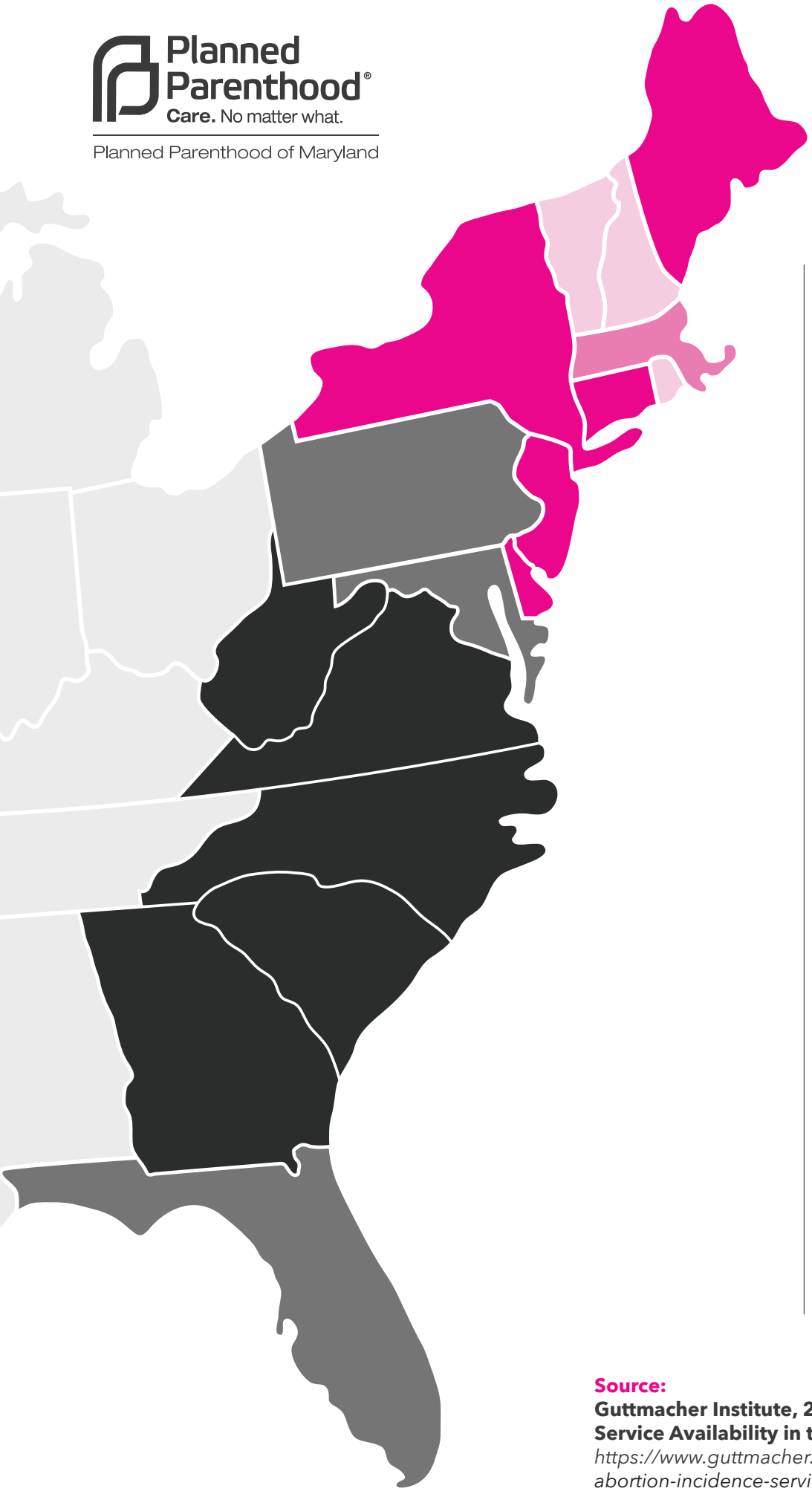

% of Counties Without Abortion Clinics

13%	Connecticut
31%	Maine
33%	New Jersey
33%	Delaware
39%	New York
43%	Massachusetts
60%	New Hampshire
60%	Rhode Island
64%	Vermont
71%	Maryland
73%	Florida
85%	Pennsylvania
91%	North Carolina
93%	Virginia
93%	South Carolina
95%	Georgia
98%	West Virginia

- **39**% or below
- **40-49**%
- **50-69**%
- **70-89**%
- **90**% or above

Source:
Guttmacher Institute, 2019. Abortion Incidence and Service Availability in the United States, 2017.
https://www.guttmacher.org/sites/default/files/report_pdf/abortion-incidence-service-availability-us-2017.pdf

MARYLAND MEDICAL ASSISTANCE PROGRAM

CERTIFICATION FOR ABORTION

A COPY OF THIS FORM MUST BE ATTACHED TO ALL INVOICES FOR ABORTION SERVICES.

Please Print or Type

PATIENT'S NAME

PHYSICIAN COMPLETING FORM

PATIENT'S ADDRESS

PHYSICIAN'S MEDICAL ASSISTANCE PROVIDER NUMBER

PATIENT'S ADDRESS

PLACE OF SERVICE

PATIENT'S MEDICAL ASSISTANCE NUMBER

DATE OF SERVICE

PART I - Check one of the blocks if applicable and sign the certification.

☐ G. I certify that this abortion is necessary because the life of the mother would be endangered if the fetus were carried to term.

DATE

PHYSICIAN'S SIGNATURE

☐ I. Attached is a document submitted by an official of a law enforcement agency or public health service where the rape or incest was reported. The document includes the following information:

1. Name and address of victim;
2. Name and address of person making the report (if different from the victim);
3. Date of the rape or incest incident;
4. Date of the report (may not exceed 60 days after the incident);
5. Statement that the report was signed by the person making it;
6. Name and signature of person at law enforcement agency or public health service who took the rape or incest report.

DATE

PHYSICIAN'S SIGNATURE

PART II - You must check one of the following blocks and sign the certificate, unless you have checked "I" in Part I, above.

☐ R. I certify that this abortion is necessary because, based on my professional judgement, continuation of the pregnancy is likely to result in the death of the woman.

DATE

PHYSICIAN'S SIGNATURE

☐ S. I certify that, within a reasonable degree of medical certainty, based on my professional judgement, termination of pregnancy is medically necessary because there is substantial risk that continuation of the pregnancy could have a serious and adverse effect on the woman's present or future physical health.

DATE

PHYSICIAN'S SIGNATURE

☐ T. I certify that, in my professional judgement, there exists medical evidence that continuation of the pregnancy is creating a serious effect on the woman's present mental health and, if carried to term, there is substantial risk of a serious or long lasting effect on the woman's future mental health.

DATE

PHYSICIAN'S SIGNATURE

☐ V. I certify that, within a reasonable degree of medical certainty, based on my professional judgement, this abortion is necessary because the fetus is affected by genetic defect or serious deformity or abnormality.

DATE

PHYSICIAN'S SIGNATURE

☐ W. I certify that this procedure is necessary for a victim of rape, sexual offense, or incest, and the inciden has been reported to a law enforcement agency or to a public health or social agency.

DATE

PHYSICIAN'S SIGNATURE

DHMH 521 (9/80/25,000)