



## DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 15, 2024

The Honorable Joseline A. Peña-Melnyk  
Chair, House Health and Government Operations Committee  
Room 241, House Office Building  
Annapolis, Maryland 21401

### **RE: House Bill 1233 – Public Health - Abortion – Letter of Opposition**

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of opposition for House Bill (HB) 1233 – Public Health - Abortion. HB 1233 requires that an abortion be performed by a physician, rather than qualified providers. It also repeals specific laws concerning State interference with abortions, regulations regarding abortion, and liability or criminal penalties for qualified providers conducting abortions. Additionally, the bill prohibits physicians from performing abortions under certain circumstances, establishes new requirements for performing abortions on pregnant women, mandates that these requirements be enforced solely through private civil actions, allows any individual (excluding State or local government employees) to initiate civil actions, and provides sovereign, governmental, and official immunity under certain conditions.

HB 1233 is a targeted regulation of abortion providers (TRAP). TRAP laws single out abortion providers and impose requirements that are different and often more burdensome than those imposed on other medical practices.<sup>1</sup> The American College of Obstetricians and Gynecologists (ACOG) does not support legislation that “unduly regulates or criminalizes abortion care providers.”<sup>2</sup> Ultrasounds are performed for many different medical reasons, including for pregnancies carried to term, and yet this bill only seeks to regulate ultrasounds performed for abortion care and other aspects of abortion care. For example, this bill requires a mandatory ultrasound and a 24-hour waiting period between the ultrasound and receiving the abortion, or a 2-hour waiting period if a woman lives over 100 miles from an “abortion provider that is a facility that performs more than 50 abortions in any 12-month period.” It does not specify how a woman seeking abortion should reasonably know that information. ACOG does not support mandatory waiting periods and considers them to be an additional and unnecessary barrier to accessing evidence-based care.<sup>2</sup> In addition, mandatory waiting periods can increase the cost of abortion and create significant logistical challenges to accessing care, which disproportionately

<sup>1</sup> Targeted Regulation of Abortion Providers (TRAP). Center for Reproductive Rights. Aug 2015.

<https://reproductiverights.org/targeted-regulation-of-abortion-providers-trap/>

<sup>2</sup> Abortion Access. The American College of Obstetricians and Gynecologists.

<https://www.acog.org/advocacy/policy-priorities/abortion-access>

impacts people with fewer resources, many of whom are lower-income, young, and from racial and ethnic minority groups.<sup>3</sup>

HB 1233 would reinstate a physician-only requirement for abortion provision that Maryland repealed in the 2023 legislative session. Physician-only requirements in abortion care are not evidence-based and are opposed by ACOG, which calls for advanced-practice clinicians (APCs) being permitted to be trained in and provide abortion care services.<sup>3</sup> Through the Abortion Care Access Act of 2022,<sup>4</sup> the Department administers and supports an annual \$3.5 million grant program for APCs to be trained in abortion care.

This bill permits civil actions against physicians who break any of the bill's regulations and against anyone who helps a woman get the abortion in question, including anyone who helped pay for the abortion or covered it with insurance. Maryland law currently requires private insurance to cover abortion services, and Maryland Medicaid covers abortion as well. Furthermore, the bill does not allow costs or attorney's fees to be awarded to a defendant. This means even if a physician follows the law but a civil suit is brought against them, they are responsible for the full financial burden of their defense. This bill clearly seeks to restrict and punish providers for providing legally protected abortion health care.

Every state, including Maryland, requires that a patient provide informed consent before undergoing any medical treatment, including abortion.<sup>5</sup> Informed consent must include voluntary participation in the decision. Despite this, the bill imposes specific counseling requirements on abortion providing facilities only, including providing medically inaccurate information that falsely asserts a link between abortion and breast cancer.<sup>5</sup>

HB 1233 would have both a fiscal and operational impact on the Department. If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at [sarah.case-herron@maryland.gov](mailto:sarah.case-herron@maryland.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Laura Herrera Scott', is written over a faint outline of the state of Maryland.

Laura Herrera Scott, M.D., M.P.H.  
Secretary

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<sup>3</sup> Increasing Access to Abortion. The American College of Obstetricians and Gynecologists. Dec 2020.  
<https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/12/increasing-access-to-abortion>

<sup>4</sup> Chapter 56 of the Maryland Acts of 2022 (HB937/SB890).  
[https://mgaleg.maryland.gov/2022RS/Chapters\\_noln/CH\\_56\\_hb0937t.pdf](https://mgaleg.maryland.gov/2022RS/Chapters_noln/CH_56_hb0937t.pdf)

<sup>5</sup> Counseling and Waiting Periods for Abortion. Guttmacher Institute. Aug 2023.  
<https://www.guttmacher.org/state-policy/explore/counseling-and-waiting-periods-abortion>