



Jan. 23, 2023

**ILLINOIS HEALTH AND HOSPITAL ASSOCIATION
M E M O R A N D U M**

SUBJECT: Summary of Reproductive Health Omnibus Passed During Lane Duck Session

On Jan. 13, Governor Pritzker signed HB 4664 ([P.A. 102-1117](#)). This new law, approved by the General Assembly in the waning days of the lame duck session, is an omnibus bill aimed at shielding reproductive and gender-affirming healthcare patients and providers from legal action originating across state lines. This memo serves to summarize the key components of the legislation.

As it pertains to hospitals and their providers, the most pertinent issues include:

Hospital Reporting – Regarding the reporting of abortions under the [Reproductive Health Act](#), the legislation now requires providers to report each abortion performed by a healthcare professional to the Illinois Dept. of Public Health (IDPH) on a quarterly basis (instead of 10 days following the end of the month in which the procedure was performed). As a reminder, the Act defines an abortion as “the use of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of an individual known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.”

Protection of Provider Licenses – These sections address concerns regarding adverse action taken against a healthcare professional for providing legal healthcare services in Illinois. This was done through preventing the Illinois Dept. of Financial and Professional Regulation (IDFPR) from taking disciplinary action against any healthcare professional licensed under the Division of Professional Regulation Acts governed by IDFPR based solely upon the license of the professional being disciplined by any state for providing or participating in any healthcare that is legal in Illinois, regardless of whether it is legal in the other state.

- Specifically, the legislation amends Illinois’ health professional licensing laws to specify that so long as the care was not unlawful under Illinois law, and regardless of whether the patient is a resident of Illinois or another state, Illinois’ licensing boards will not take action against an Illinois provider’s license solely because they perform, assist, recommend or inform patients about any healthcare services.
 - These protections were afforded to the following professions: physicians, nurses, physician assistants, behavioral analysts, clinical psychologists, clinical social workers, marriage and family therapists, professional counselors/clinical professional counselors, registered surgical assistants/technologists, and genetic counselors.

- Similarly, the bill amends Illinois' licensure laws to clearly state that, so long as the healthcare services are not unlawful in Illinois and were provided consistent with the standards of care, Illinois licensing boards will not take disciplinary action against licensees solely because the licensee is being disciplined by another state, if such other state's disciplinary action is based solely on the provider's violation of such state's laws prohibiting the provision of any healthcare service if that healthcare service is lawful in Illinois.

Healthcare Professional Credentialing and Insurance Rates – Protections for healthcare providers and facilities from being punished for providing abortions and related services were also included. Provisions were added specifying that healthcare institutions and insurers cannot take any adverse action, including, but not limited to, restricting or terminating any person's clinical privileges, as a result of disciplinary actions by another state or healthcare institution that resulted from the person's provision of any healthcare service if the adverse action was based solely on a violation of the other state's law prohibiting the provision of such healthcare and related services in the state or for a resident of the state, if that healthcare service would not have been unlawful in Illinois and was consistent with the standards of care.

Enhance Access to Reproductive Healthcare Services – Under these provisions, the legislation addresses access to both providers of reproductive healthcare services as well as ease of access to certain prescription medications.

- Allows IDFPR to establish expedited, temporary licenses for out-of-state healthcare professionals seeking to provide healthcare in Illinois including via telehealth. These temporary licenses are limited to physicians, nurses, and physician assistants. These temporary licenses are valid for 2 years and may be renewed once for another 2-year period. While this flexibility has been made available, it does not mandate a hospital or medical office to engage in an employment relationship with a temporary license holder.
 - *Note:* The purpose of these temporary licenses was to supplement Illinois' provider workforce who are able to provide reproductive health services; however, **temporary licenses are not limited to providers solely providing these services**. Thus, this mechanism for a temporary permit can be used more widely, though there are additional restrictions and requirements established.
- Permits advanced practice registered nurses and physician assistants to perform abortions consistent with their training and within their scope of practice.
- Requires IDPH to partner with organizations to provide grants for abortion training, subject to appropriations.

- Expands access to reproductive healthcare by permitting birth centers in Illinois to provide the full spectrum of reproductive healthcare and sexual healthcare, instead of only childbirth-related needs of pregnant persons and their newborns.
- Allows patients to receive hormonal birth control over the counter from a pharmacist pursuant to a standing order from IDPH.

The legislation also addresses the following issues more broadly in the reproductive health and gender affirming care space:

Additional Legal Protections – Under these provisions, action was taken to combat possible legal actions taken against providers of, or individuals seeking, reproductive or gender affirming care.

- Clarifies that no person is subject to civil liability for receiving an abortion under the Wrongful Death Act; clarifies that no hospital personnel shall report an abortion to law enforcement agencies; and clarifies that the statute of limitations under the Reproductive Health Act is two years.
- Shields individuals in Illinois from foreign subpoenas, summons, or extraditions related to lawful reproductive or gender affirming care in Illinois. Requires courts in Illinois to apply Illinois law in cases involving reproductive healthcare.
- Clarifies that Illinois will not extradite someone solely because they traveled to Illinois for lawful healthcare services (i.e., reproductive health or gender affirming care) or those who assisted the person in obtaining those services (e.g., health care professionals).
- Establishes a counterclaim for individuals who have a judgement entered against them in another state for reproductive healthcare that is legal in Illinois.
- Makes changes to implement the state's prior repeal of parental notification law for a minor seeking abortion services.
- Makes changes to the Parentage Act to allow intended parents or parents to dispose of any cryopreserved fertilized ovum, to be governed by the intended parents or parent's most recent informed consent or under a marital settlement agreement. It also permits for the establishment of a parent-child relationship in the event of gestational surrogacy wherein the intended parent dies. Finally it would allow an out-of-state physician to certify the genetic make-up of embryos.

- Adds “assisted reproduction” to the definition of reproductive healthcare in the Reproductive Health Act. “Assisted reproduction” means a method of achieving a pregnancy through the handling of human oocytes, sperm, zygotes, or embryos for the purpose of establishing a pregnancy.

Insurance Coverage – These provisions address insurance coverage requirements for reproductive health services and medications.

- Requires local units of government, including schools, municipalities, and counties that offer health insurance plans to provide coverage for contraceptives, and if they offer pregnancy-related benefits, abortion.
- Requires abortifacients (medications administered to terminate a pregnancy), gender-affirming healthcare medications, and PEP/PrEP medication (HIV protection or treatment) to be covered by insurers at no-cost to the consumer.
- Prevents insurers from charging higher out-of-pocket costs for certain insurance plans when patients are forced to seek out-of-network provider care due to an in-network provider raising moral objections under the Health Care Right of Conscience Act.