
OLR Bill Analysis

HB 5424

AN ACT PROHIBITING ADVERSE ACTIONS AGAINST HEALTH CARE PROVIDERS FOR PROVIDING CERTAIN HEALTH CARE SERVICES.

SUMMARY

This bill prohibits health care entities, under certain conditions and limitations, from doing the following:

1. limiting a health care provider's provision of comprehensive medically accurate information and counseling to patients on their health status regarding reproductive or gender-affirming health care services, or information about available and relevant community services and resources for these services;
2. prohibiting a health care provider, in an entity with an emergency department, from providing reproductive health care services related to pregnancy complications (e.g., miscarriage management and treatment for ectopic pregnancies), if failing to provide the service would violate the standard of care or present a serious risk to the patient; or
3. firing, demoting, suspending, or otherwise discriminating against a health care provider for providing this information or these services.

For these prohibitions to apply, the providers must be acting (1) in good faith; (2) within their professional scope of practice, education, training, and experience; and (3) within the accepted standard of care.

Under the bill, health care entities may still perform relevant peer review of their providers or require them to comply with (1) preferred provider network or utilization review requirements for insurance

purposes or (2) health care quality and patient safety guidelines.

Lastly, the bill specifies that it does not change health care entities' obligations under applicable federal laws and regulations, including the Emergency Medical Treatment and Labor Act (EMTALA, see BACKGROUND).

EFFECTIVE DATE: July 1, 2024

LIMITATIONS ON HEALTH CARE PROVIDERS

The bill prohibits health care entities from limiting health care providers' provision of comprehensive, medically accurate and appropriate information (e.g., information supported by current scientific evidence and published in peer-reviewed journals) to patients about:

1. their health status related to gender-affirming or reproductive health care services, including diagnosis, prognosis, treatment recommendations and alternatives, and any potential risk to their life or health, and
2. available and relevant community services and resources and how to access them to obtain the care they choose.

Under the bill, health care entities may still perform relevant peer reviews of health care providers they employ or require these providers to (1) comply with preferred provider network or utilization review requirements of any program or entity authorized by state or federal law to provide health insurance coverage to enrollees or (2) meet established health care quality and patient safety guidelines or rules.

The bill defines "reproductive health care services" as all medical, surgical, counseling, or referral services related to the reproductive system, including sexual health, pregnancy, contraception, and pregnancy termination.

"Gender-affirming health care services" include all medical care to treat (1) gender dysphoria, as defined in the most recent edition of the

American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (i.e., the DSM-V), and (2) gender incongruence, as defined in the most recent revision of the International Statistical Classification of Diseases and Related Health Problems.

EMERGENCY DEPARTMENTS

The bill prohibits health care entities with emergency departments from banning health care providers from providing reproductive health care services related to pregnancy complications, including miscarriage management and treatment for ectopic pregnancies, if (1) failing to provide the service would violate accepted standards of care or (2) there is a serious risk to the patient’s life or health.

Under the bill, health care entities may still limit a provider’s practice for the following purposes:

1. complying with preferred provider network or utilization review requirements for state- or federally-authorized health insurers or
2. ensuring quality of care and patient safety, including when a peer review identifies quality control or patient safety issues.

BACKGROUND

EMTALA

EMTALA requires every hospital with an emergency department that participates in Medicare to screen and treat patients with emergency medical conditions or arrange for their appropriate transfer if they are unable to do so. They must do this regardless of a person’s income, insurance status, or other factors (e.g., immigration status, race, or religion). Hospitals and providers who fail to comply are subject to civil penalties and termination from Medicare or Medicaid (42 U.S.C. § 1395dd and 42 C.F.R. § 1003.500).

The law applies to emergency medical conditions that, if left untreated, could reasonably be expected to threaten the person’s life or impose severe and long-lasting health effects. This includes pregnancy-related conditions, such as miscarriage complications, ectopic pregnancy, or preeclampsia, which may require medically necessary

abortions.

The federal Department of Health and Human Services, in compliance with a federal executive order, issued guidance in 2022 (QSO-22-22-Hospitals) and a comprehensive plan in 2024 to (1) specify that EMTALA requirements preempt state laws prohibiting or restricting access to abortion care and (2) educate patients and providers on their rights and obligations for emergency medical care.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 28 Nay 9 (03/20/2024)