SENATE . . . . . No. 3003

Senate, July 13, 2022 -- Text of the Senate amendment to the House Bill expanding protections for reproductive and gender-affirming care (House, No. 4954) (being the text of Senate, No. 2996, printed as amended)

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

SECTION 1. Section 1 of chapter 9A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the definition of "Application assistant" the following 3 definitions:-

"Gender-affirming health care services", all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to the treatment of gender dysphoria.

"Legally-protected health care activity", (i) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or the provision insurance coverage for such services; or (ii) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or to provide insurance coverage for such services; provided, however, that the provision of such a health care service by a person duly licensed under the laws of the commonwealth and physically

present in the commonwealth and the provision of insurance coverage for such services shall be legally protected if the service is permitted under the laws of the commonwealth, regardless of the patient's location; and provided further, that "legally-protected health care activity" shall not include any service rendered below an applicable professional standard of care or that would violate anti-discrimination laws of the commonwealth.

"Reproductive health care services", all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to pregnancy, contraception, assisted reproduction, miscarriage management or the termination of a pregnancy.

SECTION 2. Section 2 of said chapter 9A, as so appearing, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1)(a) Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor or a guardian acting on behalf of an incapacitated person may apply to the secretary to have an address designated by the secretary serve as the person's address or the address of the minor or incapacitated person.

(b) Individuals engaged in the provision, facilitation or promotion of legally-protected health care activity may apply to the secretary to have an address designated by the secretary serve as the health care professional's address; provided, however, that in such cases, no recommendation of an application assistant shall be required.

SECTION 3. Said chapter 9A is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. The secretary shall promulgate regulations to implement this chapter and in doing so shall consult with the secretary of health and human services, Jane Doe Inc.: The Massachusetts Coalition Against Sexual Assault and Domestic Violence, GLBTQ Legal Advocates & Defenders, Inc., Planned Parenthood League of Massachusetts, Inc., ABCD, Inc. on behalf of the MA Family Planning Association, The Massachusetts League of Community Health Centers, Inc., the Maternal Outcomes for Translational Health Equity Research Lab, Resilient Sisterhood Project, Inc., Health Care Without Walls, Inc., Our Bodies Ourselves and Reproductive Equity Now, Inc.

SECTION 4. Chapter 12 of the General Laws is hereby amended by inserting after section 11I the following 2 sections:-

Section 11I½. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Gender-affirming health care services", all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to the treatment of gender dysphoria.

"Interfere through abusive litigation", to deter, prevent, sanction or punish any person engaging in legally-protected health care activity by: (i) filing or prosecuting any action in any state other than the commonwealth where liability, in whole or part, directly or indirectly, is based on legally-protected health care activity that occurred in the commonwealth, including any action in which liability is based on any theory of vicarious, joint or several liability derived therefrom; or (ii) attempting to enforce any order or judgment issued in connection with any such action by any party to the action or any person acting on behalf of a party to the action; provided,

however, that a lawsuit shall be considered to be based on conduct that occurred in the commonwealth if any part of any act or omission involved in the course of conduct that forms the basis for liability in the lawsuit occurs or is initiated in the commonwealth, whether or not such act or omission is alleged or included in any pleading or other filing in the lawsuit.

"Legally-protected health care activity", (i) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or the provision of insurance coverage for such services; or (ii) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth; provided, however, that the provision of such a health care service by a person duly licensed under the laws of the commonwealth and physically present in the commonwealth and the provision of insurance coverage for such services shall be legally protected if the service is permitted under the laws of the commonwealth, regardless of the patient's location; and provided further, that "legally-protected health care activity" shall not include any service rendered below an applicable professional standard of care or that would violate anti-discrimination laws of the commonwealth.

"Reproductive health care services", all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to pregnancy, contraception, assisted reproduction, miscarriage management or the termination of a pregnancy.

(b) Access to reproductive health care services and gender-affirming health care services is a right secured by the constitution and laws of the commonwealth. Interference with this right, whether or not under the color of law, is against the public policy of the commonwealth.

(c) Any public act or record of a foreign jurisdiction that prohibits, criminalizes, sanctions, authorizes a person to bring a civil action against or otherwise interferes with a person, provider, carrier or other entity in the commonwealth that seeks, receives, causes, aids in access to, aids or abets or provides, or attempts or intends to seek, receive, cause, aid in access to, aid or abet or provide, reproductive health care services or gender-affirming health care services shall be an interference with the exercise and enjoyment of the rights secured by the constitution and laws of the commonwealth and shall be a violation of the public policy of the commonwealth.

(d) If a person, including any plaintiff, prosecutor, attorney or law firm, whether or not acting under color of law, engages or attempts to engage in abusive litigation that infringes on, interferes with or attempts to infringe on or interfere with legally-protected health care activity, any aggrieved person, provider, carrier or other entity, including any defendant in such abusive litigation, may institute and prosecute a civil action for injunctive, monetary or other appropriate relief within 3 years after the cause of action accrues

Any aggrieved person, provider, carrier or other entity, including any defendant in such abusive litigation, may move to modify or quash any subpoena issued in connection with such abusive litigation on the grounds that the subpoena is unreasonable, oppressive or inconsistent with the public policy of the commonwealth pursuant to the Massachusetts Rules of Civil Procedure.

If the court finds for the petitioner in an action authorized by this section, recovery shall be in the amount of actual damages, which shall include damages for the amount of any judgment issued in connection with any abusive litigation, and any and all other expenses, costs or reasonable attorney's fees incurred in connection with the abusive litigation.

(e) A court may exercise jurisdiction over a person in an action authorized by this section if: (i) personal jurisdiction is found under section 3 of chapter 223A; (ii) the person has commenced any action in any court in the commonwealth and, during the pendency of that action or any appeal therefrom, a summons and complaint is served on the person or the attorney appearing on the person's behalf in that action or as otherwise permitted by law; or (iii) the exercise of jurisdiction is permitted under the Constitution of the United States.

(f) This section shall not apply to a lawsuit or judgment entered in another state that is based on conduct for which a cause of action exists under the laws of the commonwealth if the course of conduct that forms the basis for liability had occurred entirely in the commonwealth, including any contract, tort, common law or statutory claims.

Section 11I ¾. Notwithstanding any general or special law or common law conflict of law rule to the contrary, the laws of the commonwealth shall govern in any case or controversy heard in the commonwealth related to reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I½, except as may be required by federal law.

SECTION 5. Section 105 of chapter 13 of the General Laws, as amended by section 23 of chapter 39 of the acts of 2021, is hereby further amended by adding the following 2 paragraphs:-

Notwithstanding any general or special law to the contrary, a person licensed under this section or in accordance with sections 255 or 256 of chapter 112 shall not be subject to discipline by the board, including the revocation, suspension or cancellation of the certificate of registration or reprimand, censure or monetary fine, for providing or assisting in the provision of reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I½ of chapter 12, or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent with the standards of conduct for genetic counselors if they occurred entirely in the commonwealth; provided further, that the board shall not take adverse action on an application for registration of a qualified genetic counselor based on a criminal or civil action or disciplinary action by a licensing board of another state that arises from such health care services that, as provided, would have been lawful and consistent with the standards of conduct for genetic counselors if they occurred entirely in the commonwealth.

Nothing in this section shall be construed to regulate the practice of genetic counselors in any other state.

SECTION 6. Chapter 15A of the General Laws is hereby amended by adding the following 2 sections:-

Section 46. (a) As used in this section and section 47, the following words shall have the following meanings unless the context clearly requires otherwise:

“Institution”, a public institution of higher education listed in section 5.

“Medication abortion”, abortion provided by medication techniques.

"Medication abortion readiness", each institution's preparedness to provide medication abortions to students or assist students in obtaining medication abortions, including, but not limited to, having in place equipment, protocols, patient educational materials, informational websites and training for staff; provided, however, that "medication abortion readiness" may include the provision of medication abortions.

"Health center", a clinic or health center providing primary health care services to students operated by an institution.

(b) (1) Each institution shall develop a medication abortion readiness plan for its students.

(2) The department of public health shall issue guidance to all institutions regarding the required contents of medication abortion readiness plans in accordance with the varied capabilities of institutions to provide services including, but not limited to, directly providing medication abortions to students in a health center, providing referrals for abortion care services not provided in the health center or providing information to students about obtaining a medication abortion. In developing the guidance, the department shall consider factors including, but not limited to, whether the institution has an operational health center on campus, the institution's proximity to a hospital, clinic or other facility that provides medication abortion, availability, convenience and cost of public transportation between the institution and closest facility that provides medication abortion and whether the institution employs health care workers on campus.

(3) The department of public health shall review medication abortion readiness plans annually, taking into consideration any changes to the capacity of each institution to provide services to students since the preceding approval of the plan.

(c) Each institution shall annually submit any amendments or revisions to its medication abortion readiness plan to the department of public health.

(d) Annually, not later than January 31, the department of public health shall determine whether the plan is adequate in proportion to each institution's capacity. The department shall provide further guidance to institutions with plans deemed inadequate that includes remedial measures for the institution to develop an adequate plan.

Section 47. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Public University Health Center Sexual and Reproductive Health Preparation Fund for the purpose of medication abortion readiness. The fund shall be administered by the department of public health, in consultation with the department of higher education. The fund shall be credited with: (i) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; and (ii) funds from non-state entities, including, but not limited to, gifts, grants and donations from private entities and local and federal government agencies. Amounts credited to the fund shall not be subject to further appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(b) The department of public health shall utilize money in the fund to:

(i) provide a grant to each health center to pay for the cost of direct and indirect medication abortion readiness; provided, however, that, the department shall prioritize applications from the University of Massachusetts and state university segments and create a simple application process for community colleges to apply for funding; and provided further, that allowable expenses under these grants shall include, but not be limited to: (A) the purchase

of equipment used in the provision of medication abortions; (B) facility and security upgrades; (C) costs associated with enabling the health center to deliver telehealth services; (D) costs associated with training staff in the provision of medication abortions; (E) staff cost reimbursement and clinical revenue offset while staff are in trainings; and (F) billing specialist consultation;

(ii) pay the direct and indirect costs of the department of public health associated with administration of the fund, including the costs of hiring staff; and

(iii) maintain a system of financial reporting on all aspects of the fund.

(c) Each health center grantee shall, as a condition of receiving a grant award from the fund, participate in an evaluation of its medication abortion readiness and its provision of medication abortions.

(d) The department of public health, working with the health centers, shall assist and advise on potential pathways for health centers to access public and private payers to provide funding for ongoing costs of providing medication abortions.

(e)(1) Annually, not later than December 31, the department of public health shall submit a report to the clerks of the senate and house of representatives, including, but not limited to, all of the following information for each reporting period:

(i) an accounting of the medication abortion plans of all institutions, including, but not limited to, a list of institutions that have submitted plans deemed adequate by the department, a list of institutions that are actively developing a remedial plan and a list of institutions that have not submitted an adequate plan to the department;

(ii) the number of medication abortions provided at health centers, disaggregated, to the extent possible, by the health center;

(iii) the total amount of funds granted by the department of public health to each institution and its health center from the fund that is expended on medication abortion readiness and the total amount of any other funds expended on medication abortion readiness and the source of those funds, disaggregated by use and, to the extent possible, health center; and

(iv) the total amount of funds expended on the provision of medication abortions and the source of those funds, disaggregated by use and, to the extent possible, health center.

(2) The report required in paragraph (1) and any associated data collected shall comply with state and federal privacy laws, including, but not limited to, section 70E of chapter 111, the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g and the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

SECTION 7. Section 17C of chapter 32A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “for”, in line 3, the following words:- abortion and abortion-related care as defined in section 12K of chapter 112,.

SECTION 8. Said section 17C of said chapter 32A, as so appearing, is hereby further amended by inserting after the second paragraph the following 2 paragraphs:-

Coverage provided under this section for abortion or abortion-related care shall not be subject to any deductible, coinsurance, copayment or any other cost-sharing requirement; provided, however, that deductibles, coinsurance or copayments shall be required if the applicable plan is governed by the federal Internal Revenue Code and would lose its tax-exempt

status as a result of the prohibition on deductibles, coinsurance or copayments for these services. Coverage for abortion or abortion-related care offered under this section shall not impose unreasonable restrictions or delays in the coverage.

Benefits for an enrollee under this section shall be the same for the enrollee's covered spouse and covered dependents.

SECTION 9. Chapter 94C of the General Laws is hereby amended by striking out section 19A, as so appearing, and inserting in place thereof the following section:-

Section 19A. (a) As used in this section, unless the context clearly requires otherwise, "emergency contraception" shall mean any drug approved by the federal Food and Drug Administration as a contraceptive method for use after sexual intercourse, whether provided over-the-counter or by prescription.

(b) The department shall ensure that a statewide standing order is issued to authorize the dispensing of emergency contraception by a licensed pharmacist. The statewide standing order shall include, but not be limited to, written, standardized procedures or protocols for the dispensing of emergency contraception by a licensed pharmacist. Notwithstanding any general or special law to the contrary, the commissioner, or a physician designated by the commissioner who is registered to distribute or dispense a controlled substance in the course of professional practice pursuant to section 7, shall issue a statewide standing order that may be used by a licensed pharmacist to dispense emergency contraception under this section.

(c) Notwithstanding any general or special law to the contrary, a licensed pharmacist may dispense emergency contraception in accordance with the statewide standing order issued under subsection (b). Except for an act of gross negligence or willful misconduct, a pharmacist who,

acting in good faith, dispenses emergency contraception shall not be subject to any criminal or civil liability or any professional disciplinary action by the board of registration in pharmacy related to the use or administration of emergency contraception.

(d) Before dispensing emergency contraception authorized under this section, a pharmacist may complete a training program approved by the commissioner on emergency contraception; provided, however, that the training shall include, but not be limited to, proper documentation, quality assurance and referral to additional services, including appropriate recommendation that the patient follow-up with a medical practitioner.

(e) A pharmacist dispensing emergency contraception under this section shall annually provide to the department the number of times such emergency contraception is dispensed. Reports made pursuant to this section shall not identify any individual patient, shall be confidential and shall not be public records as defined by clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66.

(f) Except for an act of gross negligence or willful misconduct, the commissioner or a physician who issues the statewide standing order under subsection (b) and any medical practitioner who, acting in good faith, directly or through the standing order, prescribes or dispenses emergency contraception shall not be subject to any criminal or civil liability or any professional disciplinary action.

(g) The department, board of registration in medicine, board of registration in nursing and board of registration in pharmacy shall adopt regulations to implement this section.

SECTION 10. Said chapter 94C is hereby further amended by inserting after section 19D the following section:-

Section 19E. (a) A registered pharmacist may prescribe and dispense hormonal contraceptive patches and self-administered oral hormonal contraceptives to a person who is:

(i) 18 years of age or older, regardless of whether the person has evidence of a previous prescription from a primary care practitioner or women's health care practitioner for a hormonal contraceptive patch or self-administered oral hormonal contraceptive; or

(ii) less than 18 years of age; provided, however, that the registered pharmacist may prescribe and dispense hormonal contraceptive patches and self-administered oral hormonal contraceptives to the person only if the person has evidence of a previous prescription from a primary care practitioner or women's health care practitioner for a hormonal contraceptive patch or self-administered oral hormonal contraceptive.

(b) The department shall adopt rules to establish, in consultation with the board of registration in medicine, the board of registration in pharmacy and MassHealth, and in consideration of guidelines established by the American Congress of Obstetricians and Gynecologists, standard procedures for the prescribing of hormonal contraceptive patches and self-administered oral hormonal contraceptives by pharmacists.(c) The rules adopted under this section shall: (i) require a pharmacist to: (A) complete a training program approved by the board of pharmacy that is related to prescribing hormonal contraceptive patches and self-administered oral hormonal contraceptives; (B) provide a self-screening risk assessment tool that the patient shall use prior to the pharmacist's prescribing the hormonal contraceptive patch or self-administered oral hormonal contraceptive; (C) refer the patient to the patient's primary care practitioner or women's health care practitioner upon prescribing and dispensing the hormonal contraceptive patch or self-administered oral hormonal contraceptive; (D) provide the patient

with a written record of the hormonal contraceptive patch or self-administered oral hormonal contraceptive prescribed and dispensed and advise the patient to consult with a primary care practitioner or women's health care practitioner; and (E) dispense the hormonal contraceptive patch or self-administered oral hormonal contraceptive to the patient as soon as practicable after the pharmacist issues the prescription; and (ii) prohibit a pharmacist from: (A) requiring a patient to schedule an appointment with the pharmacist for the prescribing or dispensing of a hormonal contraceptive patch or self-administered oral hormonal contraceptive; and (B) prescribing and dispensing a hormonal contraceptive patch or self-administered oral hormonal contraceptive to a patient who previously received a prescription and dispensation of a hormonal contraceptive patch or self-administered oral hormonal contraceptive by a pharmacist and who does not have evidence of a clinical visit for women's health within 1 year immediately following such previous prescription and dispensation.

SECTION 11. Chapter 112 of the General Laws is hereby amended by inserting after section 5F the following section:-

Section 5F½. Notwithstanding any general or special law to the contrary, no person shall be subject to discipline by the board, including the revocation, suspension or cancellation of the certificate of registration or reprimand, censure or monetary fine, for providing or assisting in the provision of reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I½ of chapter 12, or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent with good medical practice if they occurred entirely in the commonwealth.

The board shall not make available for public dissemination on a physician's individual profile record of any criminal conviction or charge for a felony or serious misdemeanor, final disciplinary action by a licensing board in another state or a medical malpractice court judgment, arbitration award or settlement that resulted from providing or assisting in the provision of reproductive health care services or gender-affirming health care services or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent with good medical practice if they occurred entirely in the commonwealth. The board shall not take adverse action on an application for registration of a qualified physician based on a criminal or civil action, disciplinary action by a licensing board of another state or a medical malpractice claim in another state arising from the provision of reproductive health care services or gender-affirming health care services that, as provided, would have been lawful and consistent with good medical practice if they occurred entirely in the commonwealth.

Nothing in this section shall be construed to regulate the practice of medicine in any other state.

SECTION 12. Section 9H of said chapter 112, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word "sections", in line 4, the following words:- ; provided, however, that notwithstanding any general or special law to the contrary, no person shall be subject to discipline by the board, including the revocation, suspension or cancellation of the certificate of registration or reprimand, censure or monetary fine, for providing or assisting in the provision of reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I½ of chapter 12, or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been

lawful and consistent with the standards of conduct for physician assistants if they occurred entirely in the commonwealth; provided further, that the board shall not take adverse action on an application for registration of a qualified physician assistant based on a criminal or civil action or disciplinary action by a licensing board of another state that arises from such health care services that, as provided, would have been lawful and consistent with the standards of conduct for physician assistants if they occurred entirely in the commonwealth.

Nothing in this section shall be construed to regulate the practice of physician assistants in any other state.

SECTION 13. Section 12K of said chapter 112, as so appearing, is hereby amended by inserting after the definition of “abortion” the following definition:-

"Abortion-related care", a service complementary or related to the provision of an abortion, including, but not limited to, any service related to managing a miscarriage.

SECTION 14. Said chapter 112 is hereby further amended by inserting after section 12N the following section:-

Section 12N½. (a) Each circumstance permitting an abortion for a pregnancy that has existed for 24 weeks or more under section 12N shall be considered independently by a treating physician and a patient or the patient’s health care proxy. No medical review process shall override a determination by a treating physician and a patient to provide an abortion consistent with said section 12N.

(b) Annually, not later than September 1, every facility authorized to perform health care services under section 12N shall submit to the department of public health a written report that

includes the facility's procedures and processes for providing services consistent with said section 12N and this section.

SECTION 15. Said chapter 112 is hereby further amended by inserting after section 12R the following section:-

Section 12R½. The department of public health, in consultation with Reproductive Equity Now, Inc., shall create and publish on its website and in print copy, as practicable, a list of abortion provider facilities opting to be included on the list. The listing shall be updated annually. The online listing shall be updated more frequently, as required or requested by a provider or provider facility and shall be sortable by geographic region.

SECTION 16. Section 32 of said chapter 112, as appearing in the 2020 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words "one hundred and thirty-eight" and inserting in place thereof the following words:- 138; provided, however, that notwithstanding any general or special law to the contrary, no person, pharmacy or pharmacy department shall be subject to discipline by the board, including the revocation, suspension or cancellation of the certificate of registration or reprimand, censure or monetary fine, for providing or assisting, including dispensing of medication, in the provision of reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I ½ of chapter 12, or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent with the code of professional conduct for pharmacists if they occurred entirely in the commonwealth; provided further, that the board shall not take adverse action on an application for registration of a qualified pharmacist based on a criminal or civil action or disciplinary action by a licensing board of another state that

arises from such health care services, including the dispensing of medication, that, as provided, would have been lawful and consistent with the code of professional conduct for pharmacists if they occurred entirely in the commonwealth.

Nothing in this section shall be construed to regulate the practice of pharmacists in any other state.

SECTION 17. Section 77 of said chapter 112, as so appearing, is hereby amended by adding the following 4 paragraphs:-

Notwithstanding any general or special law to the contrary, no person shall be subject to discipline by the board, including the revocation, suspension or cancellation of the certificate of registration or reprimand, censure or monetary fine, for providing or assisting in the provision of reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I ½ of chapter 12, or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent with the standard of conduct for nurses if they occurred entirely in the commonwealth.

For advanced practice registered nurses, the board shall not make available for public dissemination on an advanced practice registered nurse's individual profile record of any criminal conviction or charge for a felony or serious misdemeanor, final disciplinary action by a licensing board in another state or a malpractice court judgment, arbitration award or settlement that resulted from providing or assisting in the provision of reproductive health care services or gender-affirming health care services or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent

with the scope and standards of advanced practice registered nursing practice if they occurred entirely in the commonwealth.

The board shall not take adverse action on an application for registration of a qualified nurse based on a criminal or civil action or disciplinary action by a licensing board of another state or a medical malpractice claim in another state arising from such health care services that, as provided, would have been lawful and consistent with the standard of conduct for nurses if they occurred entirely in the commonwealth.

Nothing in this section shall be construed to regulate the practice of nursing in any other state.

SECTION 18. Section 128 of said chapter 112, as so appearing, is hereby amended by inserting after the word “inclusive”, in line 4, the following words:- ; provided, however, that notwithstanding any general or special law to the contrary, no person shall be subject to discipline by the board, including the revocation, suspension or cancellation of the certificate of registration or reprimand, censure or monetary fine, for providing or assisting in the provision of reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I½ of chapter 12, or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent with the standard of conduct adopted by the board by regulation if they occurred entirely in the commonwealth; provided further, that the board shall not take adverse action on an application for registration of a qualified psychologist based on a criminal or civil action or disciplinary action by a licensing board of another state that arises from such health care services that, as

provided, would have been lawful and consistent with the standard of conduct adopted by the board by regulation if they occurred entirely in the commonwealth.

Nothing in this section shall be construed to regulate the practice of psychology in any other state.

SECTION 19. Section 137 of said chapter 112, as so appearing, is hereby amended by inserting after the word “practice”, in line 8, the following words:- ; provided, however, that notwithstanding any general or special law to the contrary, no person shall be subject to discipline by the board, including the revocation, suspension or cancellation of the certificate of registration or reprimand, censure or monetary fine, for providing or assisting in the provision of reproductive health care services or gender-affirming health care services, as those terms are defined in section 11I ½ of chapter 12, or for any judgment, discipline or other sanction arising from such health care services if the services as provided would have been lawful and consistent with the standards of professional practice and conduct for social workers if they occurred entirely in the commonwealth; provided further, that the board shall not take adverse action on an application for registration of a qualified social worker based on a criminal or civil action or disciplinary action by a licensing board of another state that arises from such health care services that, as provided, would have been lawful and consistent with the standards of professional practice and conduct for social workers if they occurred entirely in the commonwealth.

Nothing in this section shall be construed to regulate the practice of social work in any other state.

SECTION 20. Said chapter 112 is hereby further amended by striking out section 252, as so appearing, and inserting in place thereof the following section:-

Section 252. As used in sections 252 to 258, inclusive, the following words shall have the following meanings unless the context clearly requires otherwise:

"ABGC", the American Board of Genetic Counseling, a national agency for certification and recertification of genetic counselors or its successor agency.

"ABMGG", American Board of Medical Genetics and Genomics, a national agency for certification and recertification of genetic counselors, MD geneticists and PhD geneticists or its successor agency.

"ACGC", Accreditation Council for Genetic Counseling, a national agency for accreditation of genetic counselor training programs or its successor agency.

“Active Candidate Status”, status of an individual who meets the requirements to sit for the ABGC genetic counselor certification exam.

“Board”, the board of registration of genetic counselors.

“General supervision”, a supervisor, whether a licensed genetic counselor or medical doctor, who has the overall responsibility to assess the work of a provisionally licensed genetic counselor, including regular meetings and chart review; provided, however, that an annual supervision contract signed by the supervisor and supervisee shall be on file with both parties.

“Licensed genetic counselor"”, a person licensed under section 105 of chapter 13 to engage in the practice of genetic counseling.

“Practice of genetic counseling”, a communication process, conducted by 1 or more appropriately trained individuals, that may include:

(i) obtaining and evaluating individual, family and medical histories to determine genetic risk for genetic-medical conditions and diseases in a patient, their offspring and other family members;

(ii) discussing the features, natural history, means of diagnosis, genetic and environmental factors and management of risk for genetic-medical conditions and diseases;

(iii) identifying, ordering and coordinating genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment;

(iv) integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic-medical conditions and diseases;

(v) explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results;

(vi) evaluating the client's, or their family's, responses to the condition or risk of recurrence and provide client-centered counseling and anticipatory guidance;

(vii) identifying and utilizing community resources that provide medical, educational, financial and psychosocial support and advocacy;

(viii) providing written documentation of medical, genetic and counseling information for families and health care professionals; and

(ix) any other criteria the board deems appropriate and consistent with this section.

“Provisionally licensed genetic counselor”, a person with a provisional license issued under section 255.

SECTION 21. Said chapter 112 is hereby further amended by striking out sections 254 through 257, inclusive, as so appearing, and inserting in place thereof the following 4 sections:-

Section 254. An applicant for registration as a genetic counselor shall have:

(i) earned a master’s degree from a genetic counseling training program that is accredited by the ACGC or an equivalent as determined by the ACGC, or a doctoral degree from a medical genetics training program that is accredited by the ABMGG or an equivalent as determined by the ABMGG;

(ii) successfully achieved ABGC certification as a genetic counselor by examination or the ABMGG certification by examination as a Ph.D. medical geneticist; and

(iii) completed such experience as may be required by the board; provided, however, that the board shall require continuing education as a condition for license renewals.

Section 255. A person who meets the qualifications for licensure as a genetic counselor except for certification and who has been granted Active Candidate Status by the ABGC may apply to practice as a provisionally licensed genetic counselor by filing an approved application with the board and payment of a fee to be determined by the secretary of administration and finance. The board may grant a provisional license to a person who successfully completes a genetic counseling education program approved by the board and is qualified to be admitted to the examination. The provisional license shall be valid for 2 years from the date of issue and may be renewed for an additional 1-year period if the applicant maintains Active Candidate Status

with the ABGC or if the applicant fails the first sitting of the ABMGG exam, as applicable. The provisional license shall expire automatically upon the earlier of: (i) issuance of a full license; or (ii) date printed on the temporary license.

An application for extension shall be signed by a supervising licensed genetic counselor. A provisionally licensed genetic counselor shall be under the general supervision of a licensed genetic counselor or a licensed physician with a current ABMGG certification in clinical genetics at all times during which the provisionally licensed genetic counselor performs clinical genetic counseling. The board shall adopt rules governing such supervision and direction; provided, however, that such rules shall not require the immediate physical presence of the supervising licensed genetic counselor.

Section 256. (a) The board shall examine applicants for certification as genetic counselors at such times and places as it may determine. The examination shall meet the standards established by the ACGC. The examination shall test an applicant's knowledge of basic and clinical sciences as they relate to genetic counseling theory and practice and other subjects as the board may deem useful to determine the applicant's fitness to engage in the practice of genetic counseling The board may utilize a national examination that meets the requirements of this section.

(b) The board shall examine applicants for certification as Ph.D. medical geneticists at such times and places as it may determine. The examination shall meet the standards established by the ABMGG. The examination shall test an applicant's knowledge of basic and clinical sciences as they relate to genetic counseling theory and practice and other subjects as the board may deem useful to determine the applicant's fitness to engage in the practice of genetic

counseling. The board may utilize a national examination that meets the requirements of this section.

Section 257. No person shall hold himself out as a genetic counselor unless he is licensed pursuant to sections 255 or 256 of this chapter or section 105 of chapter 13. A person who is not so licensed shall not use in connection with his name or place of business the title “genetic counselor”, “licensed genetic counselor”, “gene counselor”, “genetic consultant”, “genetic associate” or any other words, letters, abbreviations or insignia indicating or implying a person holds a genetic counseling license.

Nothing in this section shall prevent or restrict the practice, service or activities of:

(i) a person licensed, certified or registered in the commonwealth by any other law other than as a genetic counselor from engaging in activities within the scope of practice of the profession or occupation for which the person is licensed; provided, however, that the person does not represent to the public, directly or indirectly, that they are licensed pursuant to sections 255 or 256 of this chapter or section 105 of chapter 13 and does not use any name, title or designation indicating that the person is licensed under those sections;

(ii) a person employed as a genetic counselor by the federal government or an agency thereof if such person provides genetic counseling services solely under the direction and control of the organization by which they are employed;

(iii) a student or intern enrolled in an approved genetic counseling education program if: (i) the genetic counseling services performed by the student are: (A) an integral part of the student’s course of study; and (B) under the direct supervision of a licensed genetic counselor assigned to supervise the student, who is on duty and available in the assigned patient care area;

and (ii) the student or intern is designated by a title which clearly indicates their status as a student or intern;

(iv) an individual trained as a Ph.D. medical geneticist who is reapplying for the ABMGG certification examination and is gathering logbook cases under a supervisor identified in the training program's ABMGG accreditation documents as a member of the training faculty;

(v) a visiting genetics counselor certified by the ABGC or ABMGG from outside the commonwealth operating as consultants; or

(vi) the use of occasional services of organizations from outside the commonwealth employing genetic counselors certified by the ABGC or ABMGG.

SECTION 22. Section 10A of chapter 118E of the General Laws, as so appearing, is hereby amended by inserting after the word "for", in line 1, the following words:- abortion and abortion-related care as defined in section 12K of chapter 112,.

SECTION 23. Said section 10A of said chapter 118E, as so appearing, is hereby further amended by adding the following paragraph:-

Coverage provided under this section shall not be subject to any deductible, coinsurance, copayment or any other cost-sharing requirement. Coverage offered under this section shall not impose unreasonable restrictions or delays in the coverage.

SECTION 24. Chapter 147 of the General Laws is hereby amended by adding the following section:-

Section 63. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Law enforcement agency of the commonwealth", any state, municipal, college or university police department, sheriff's department, correctional facility, prosecutorial office, court, probation office, or a program of more than 1 of any such entity, or any other non-federal entity in the commonwealth charged with the enforcement of laws or the custody of detained persons.

(b) Notwithstanding any general or special law to the contrary and except as required by federal law, no officer or employee of a law enforcement agency of the commonwealth, while acting under color of law, shall provide information or assistance to a federal law enforcement agency or any other state's law enforcement agency or any private citizen or quasi-law enforcement agent in relation to an investigation or inquiry into services constituting legally-protected health care activity, as defined in section 11I½ of chapter 12, if such services would be lawful as provided if they occurred entirely in the commonwealth.

SECTION 25. Section 47F of chapter 175 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word "of", in line 20, the following words:- abortion and abortion-related care as defined in section 12K of chapter 112,.

SECTION 26. Said section 47F of said chapter 175, as so appearing, is hereby further amended by inserting after the third paragraph the following 3 paragraphs:-

Coverage provided under this section for abortion or abortion-related care shall not be subject to any deductible, coinsurance, copayment or any other cost-sharing requirement; provided, however, that deductibles, coinsurance or copayments shall be required if the applicable plan is governed by the federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on deductibles, coinsurance or copayments for these services.

Coverage offered under this section for abortion or abortion-related care shall not impose unreasonable restrictions or delays in the coverage.

Benefits for an enrollee under this section shall be the same for the enrollee's covered spouse and covered dependents.

A policy of accident and sickness insurance that is purchased by an employer that is a church or qualified church-controlled organization, as those terms are defined in subsection (j) of section 47W shall be exempt from covering abortion or abortion-related care at the request of the employer. An employer that invokes the exemption under this section shall provide written notice to prospective enrollees prior to enrollment with the plan and such notice shall list the health care methods and services for which the employer will not provide coverage for religious reasons.

SECTION 27. Section 193U of said chapter 175, as so appearing, is hereby amended by inserting after the word "specialty", in line 14, the following words:- ; provided further, that no medical malpractice insurer shall discriminate against a provider or adjust or otherwise calculate a provider's risk classification or premium charges on the basis that, applying the definitions of section 11I½ of chapter 12: (i) the health care provider offers reproductive health care services or gender-affirming health care services that are unlawful in another state; (ii) another state's laws create potential or actual liability for those services; or (iii) abusive litigation against a provider concerning reproductive health care services or gender-affirming health care services resulted in a judgment against the provider, if such health care services would be lawful and consistent with good medical practice as provided if they occurred entirely in the commonwealth.

SECTION 28. Section 8H of chapter 176A of the General Laws, as so appearing, is hereby amended by inserting after the word “for”, in line 8, the second time it appears, the following words:- abortion and abortion-related care as defined in section 12K of chapter 112,.

SECTION 29. Said section 8H of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words “to the same extent that benefits are provided for medical conditions not related to pregnancy”.

SECTION 30. Said section 8H of said chapter 176A, as so appearing, is hereby further amended by inserting after the third paragraph the following 3 paragraphs:-

Coverage provided under this section for abortion or abortion-related care shall not be subject to any deductible, coinsurance, copayment or any other cost-sharing requirement; provided, however, that deductibles, coinsurance or copayments shall be required if the applicable plan is governed by the federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on deductibles, coinsurance or copayments for these services. Coverage offered under this section for abortion or abortion-related care shall not impose unreasonable restrictions or delays in the coverage.

Benefits for an enrollee under this section shall be the same for the enrollee’s covered spouse and covered dependents.

A policy of accident and sickness insurance that is purchased by an employer that is a church or qualified church-controlled organization, as those terms are defined in subsection (j) of section 8W of this chapter shall be exempt from covering abortion or abortion-related care at the request of the employer. An employer that invokes the exemption under this subsection shall provide written notice to prospective enrollees prior to enrollment with the plan and such notice

shall list the health care methods and services for which the employer will not provide coverage for religious reasons.

SECTION 31. Section 4H of chapter 176B of the General Laws, as so appearing, is hereby amended by inserting after the word “for”, in line 8, the following words:- abortion and abortion-related care as defined in section 12K of chapter 112,.

SECTION 32. Said section 4H of said chapter 176B, as so appearing, is hereby further amended by striking out, in lines 8 to 10, inclusive, the words “to the same extent that benefits are provided for medical conditions not related to pregnancy”.

SECTION 33. Said section 4H of said chapter 176B, as so appearing, is hereby further amended by inserting after the third paragraph the following 3 paragraphs:-

Coverage provided under this section for abortion or abortion-related care shall not be subject to any deductible, coinsurance, copayment or any other cost-sharing requirement; provided, however, that deductibles, coinsurance or copayments shall be required if the applicable plan is governed by the federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on deductibles, coinsurance or copayments for these services. Coverage offered under this section for abortion or abortion-related care shall not impose unreasonable restrictions or delays in the coverage.

Benefits for an enrollee under this section shall be the same for the enrollee’s covered spouse and covered dependents.

A policy of accident and sickness insurance that is purchased by an employer that is a church or qualified church-controlled organization, as those terms are defined in subsection (j) of

section 4W shall be exempt from covering abortion or abortion-related care at the request of the employer. An employer that invokes the exemption under this subsection shall provide written notice to prospective enrollees prior to enrollment with the plan and such notice shall list the health care methods and services for which the employer will not provide coverage for religious reasons.

SECTION 34. Section 4I of chapter 176G of the General Laws, as so appearing, is hereby amended by inserting after the word “for”, in line 2, the following words:- abortion and abortion-related care as defined in section 12K of chapter 112,.

SECTION 35. Said section 4I of said chapter 176G, as so appearing, is hereby further amended by inserting after the second paragraph the following 3 paragraphs:-

Coverage provided under this section for abortion or abortion-related care shall not be subject to any deductible, coinsurance, copayment or any other cost-sharing requirement; provided, however, that deductibles, coinsurance or copayments shall be required if the applicable plan is governed by the federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on deductibles, coinsurance or copayments for these services. Coverage offered under this section for abortion or abortion-related care shall not impose unreasonable restrictions or delays in the coverage.

Benefits for an enrollee under this section shall be the same for the enrollee’s covered spouse and covered dependents.

A health maintenance contract that is purchased by an employer that is a church or qualified church-controlled organization, as those terms are defined in subsection (j) of section 4O shall be exempt from covering abortion or abortion-related care at the request of the

employer. An employer that invokes the exemption under this subsection shall provide written notice to prospective enrollees prior to enrollment with the plan and such notice shall list the health care methods and services for which the employer will not provide coverage for religious reasons.

SECTION 36. Section 4A of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the word “filing”, in line 20, the following words:- ; provided further, that, except as required by federal law, a judgment creditor shall not file a copy of any foreign judgment under this section if the judgment was issued in connection with any litigation concerning legally-protected health care activity, as defined in section 11I½ of chapter 12.

SECTION 37. Subsection (g) of said section 4A of said chapter 218, as so appearing, is hereby amended by adding the following sentence:- In any action filed to enforce a judgment issued in connection with any litigation concerning legally-protected health care activity, as defined in section 11I½ of chapter 12, the court in the commonwealth hearing the action shall not give any force or effect to any judgment issued without jurisdiction.

SECTION 38. Section 11 of chapter 223A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding any other provision of this section to the contrary and except as required by federal law, a court of this commonwealth shall not order a person who is domiciled or found within this commonwealth to give testimony or statement or produce documents or other things for use in connection with any proceeding in a tribunal outside the commonwealth concerning legally-protected health care activity, as defined in section 11I½ of chapter 12.

SECTION 39. Section 59H of chapter 231 of the General Laws, as so appearing, is hereby amended by inserting after the word “case”, in line 1, the following words:- , except a case brought pursuant to section 11I½ of chapter 12,.

SECTION 40. Section 13A of chapter 233 of the General Laws, as so appearing, is hereby amended by inserting after the word “summons”, in line 32, the following words:- , except that no justice shall issue a summons in a case, except as required by federal law, where prosecution is pending concerning legally-protected health care activity, as defined in section 11I½ of chapter 12, or where a grand jury investigation concerning legally-protected health care activity has commenced or is about to commence for a criminal violation of a law of such other state unless the acts forming the basis of the prosecution or investigation would also constitute an offense if occurring entirely in the commonwealth.

SECTION 41. Section 13 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following 2 paragraphs:-

The governor may also surrender, on demand of the executive authority of any other state, any person in the commonwealth charged in such other state in the manner provided in section 14 with committing an act in this commonwealth, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, hereafter in this section and in sections 14 to 20P, inclusive, referred to as the demanding state, only when the acts for which extradition is sought would be punishable by the laws of the commonwealth if the consequences claimed to have resulted therefrom in the demanding state had taken effect in this commonwealth and the provisions of sections 11 to 20R, inclusive, not otherwise inconsistent

shall apply to such cases even though the accused was not in the demanding state at the time of the commission of the crime and has not fled therefrom; provided, however, that the governor may, in the governor's discretion, make any such surrender conditional upon agreement by the executive authority of the demanding state that the person so surrendered will be held to answer no criminal charges of any nature except those set forth in the requisition upon which such person is so surrendered, at least until such person has been given reasonable opportunity to return to the commonwealth after the person's acquittal, if the person shall be acquitted, or after the person shall be released from confinement, if the person shall be convicted.

Except as required by federal law, the governor shall not surrender a person charged in another state as a result of engaging in legally-protected health care activity, as defined in section 11I½ of chapter 12, unless the executive authority of the demanding state shall allege in writing that the accused was physically present in the demanding state at the time of the commission of the alleged offense and that thereafter the accused fled from the demanding state.

SECTION 42. Section 14 of said chapter 276, as so appearing, is hereby amended by inserting the after word "state", in line 7, the following words:- only when the acts for which extradition is sought would be punishable by the laws of the commonwealth, if the consequences claimed to have resulted therefrom in the demanding state had taken effect in this commonwealth.

SECTION 43. Section 20A of said chapter 276, as so appearing, is hereby amended by inserting after the word "thirteen", in lines 5 and 12 and 13, the following words:- , with the exception of cases for which the governor shall not surrender a person under said section 13.

SECTION 44. Section 20B of said chapter 276, as so appearing, is hereby amended by adding the following sentence:- This section shall not apply to cases arising under section 13 for which the governor shall not surrender a person.

SECTION 45. Section 20C of said chapter 276, as so appearing, is hereby amended by inserting after the word “thirteen”, in line 4, the following words:- , with the exception of cases for which the governor shall not surrender a person under said section 13.”.

SECTION 46. Not later than April 1, 2023, the department of public health, in consultation with Reproductive Equity Now, Inc., shall issue a report to the senate and house committees on ways and means and the joint committee on public health identifying areas of the commonwealth in which pregnant people do not have access to abortion, as defined in section 12K of chapter 112 of the General Laws, or birth care within a radius of 50 miles and providing recommendations to facilitate access to abortion and birth care in the identified areas. The report shall be made publicly available on the department’s website.

SECTION 47. Sections 7, 8, 22, 23, 25, 26 and 28 to 35, inclusive, shall apply to all policies, contracts and certificates of health insurance subject to chapters 32A, 118E, 175, 176A, 176B and 176G of the General Laws that are delivered, issued or renewed on or after January 1, 2023.

SECTION 48. An institution, as defined in section 46 of chapter 15A of the General Laws, shall not be required to utilize money from its general fund or student fees for medication abortion readiness required under said section 46 of said chapter 15A until January 1, 2026.

SECTION 49. Each institution’s first medication abortion readiness plan as required under subsection (b) of section 46 of chapter 15A of the General Laws shall be submitted to the

department of public health not later than November 30, 2023 and the department shall review such plans for suitability by January 31, 2024.

SECTION 50. Subsections (c) and (d) of section 46 of chapter 15A of the General Laws shall take effect on February 1, 2024.