

# Washington D.C. Shield Law Fact Sheet

AUGUST 2024

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For both reproductive and gender-affirming care, Washington, D.C.'s shield laws provide protections against out-of-state investigations and prosecutions, professional discipline, and civil liability. Washington, D.C.'s shield laws do not currently contain specific protections related to health care providers' professional liability insurance or related to medical information or consumer health data.

## **PROTECTION AGAINST OUT-OF-STATE INVESTIGATIONS AND PROSECUTIONS**

### **Protection Barring D.C. Agency/Employee Assistance**

The District, its officers, and its employees may not provide any information or expend resources in furtherance of an interstate investigation seeking to impose civil or criminal liability upon any person for: receiving, seeking, performing, or inducing an abortion; providing, receiving, using, or seeking contraception; or providing, consenting to, receiving, or facilitating gender-affirming care lawful in D.C. ("protected health care activity").<sup>1</sup>

### **Protection against Issuance of Subpoenas**

D.C. courts may not issue an out-of-state subpoena unless it is accompanied by a sworn written statement that no portion of the subpoena is intended to further an investigation seeking to impose civil or criminal liability upon any person for "protected health care activity."<sup>2</sup>

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<sup>1</sup> D.C. Law 24-257 (2022) (D.C. Code § 2-1461.01).

<sup>2</sup> D.C. Law 24-257 (2022) (D.C. Code §§ 13-443, 13-449).

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## PROTECTION FROM PROFESSIONAL DISCIPLINE

### Protection against Adverse Actions related to Providers' Licenses and Other Board Discipline

A board may not take adverse or disciplinary action against a health care provider based on another state's revocation, suspension, or restriction of the provider's license because they provided or facilitated reproductive or gender-affirming health care lawful in D.C.<sup>3</sup>

### Protection against Denial or Restriction of Facility Privileges

It is unlawful to discriminate against a health care professional regarding staff privileges, admitting privileges, or staff appointments because of their participation in abortion.<sup>4</sup> It is also unlawful to engage in the following acts based on a health care professional's participation in abortion: fire or refuse to hire the individual, discharge or transfer them from employment or a medical training program, discriminate with respect to compensation or training opportunities or licensure or board certification, take administrative action against them, harass them, or otherwise take adverse action against them.<sup>5</sup>

## PROTECTION AGAINST CIVIL LIABILITY

### Provision of a "Clawback Lawsuit" to Recover Damages from Litigation related to Protected Care

A person against whom a judgment is entered in another jurisdiction where liability was based on a "protected health care activity" may file an action to recover damages—including the amount of the judgment and related costs and fees—from the party that brought the action against them.<sup>6</sup>

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<sup>3</sup> D.C. Law 24-830 (2023) and D.C. Act 24-738 (2023) (D.C. Code § 3-1205.14 (e-1)).

<sup>4</sup> D.C. Law 23-90 (2020) (D.C. Code § 2-1402.92).

<sup>5</sup> D.C. Law 23-90 (2020) (D.C. Code § 2-1402.92).

<sup>6</sup> D.C. Law 24-257 (2022) (D.C. Code § 2-1461.02).

## ABOUT THE CENTER ON REPRODUCTIVE HEALTH, LAW, AND POLICY (CRHLP)

CRHLP is a nationwide think tank and research center created to meet the current national crisis in access to abortion while working towards long-term solutions to advance reproductive justice. CRHLP conducts analysis and research for legal, policy, and narrative change and serves as a trusted hub for convening and engaging academics, advocates, health care providers, policy makers, and community members to reimagine the landscape of reproductive health law and policy. CRHLP also trains the reproductive law and policy leaders of tomorrow. CRHLP is committed to the highest standards of independent inquiry, academic excellence, and rigor. Research findings and conclusions are never altered to accommodate other interests, including those of funders, other organizations, or government bodies and officials.

### For more information

[law.ucla.edu/academics/centers/center-reproductive-health-law-and-policy](http://law.ucla.edu/academics/centers/center-reproductive-health-law-and-policy)

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To receive pro bono legal assistance on questions related to the shield laws or other reproductive rights or justice issues, email: [larj@law.ucla.edu](mailto:larj@law.ucla.edu)