UCLA School of Law Center on Reproductive Health, Law, and Policy

UCLA School of Law Williams Institute

Oregon
Shield Law Fact Sheet

AUGUST 2024

For both reproductive and gender-affirming health care, Oregon's shield laws provide protections against out-of-state investigations and prosecutions, professional discipline, and civil liability. Additionally, Oregon's shield laws provide protections for health care providers' professional liability insurance. Oregon's shield laws also provide limited privacy protections related to the personal information of providers of reproductive and gender-affirming care.

PROTECTION AGAINST OUT-OF-STATE INVESTIGATIONS AND PROSECUTIONS

Protection Barring State Agency/Employee Assistance

A state or local government body or its officer, employee, or agent may not subject someone to criminal or civil liability or penalty, or otherwise deprive them of any rights because they exercised or assisted another person in exercising their reproductive health rights, including the right to use or refuse contraception, continue a pregnancy and give birth, or terminate a pregnancy.[1]

Protection against Issuance of Subpoenas

A person may not request issuance of an out-of-state subpoena related to reproductive and gender-affirming health care services lawful in Oregon and for which no legal claim would exist under Oregon law.[2]

[1] HB 2002 (Or. 2023) (Or. Rev. Stat. §§ 435.240, 435.210).

[2] HB 2002 (Or. 2023) (Or. Rev. Stat. § 24.500(3)).

PROTECTION FROM PROFESSIONAL DISCIPLINE

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

Professional boards may not suspend, revoke, or refuse to grant a license or an authorization to practice to a psychologist, social worker, professional counselor, marriage therapist, physician, nurse, naturopathic practitioner, or pharmacist based solely on a conviction or license suspension or revocation issued in another state resulting from providing reproductive or gender-affirming health care lawful in Oregon.[3]

PROTECTION AGAINST CIVIL LIABILITY

Protection against Application or Enforcement of Another State's Laws or Judgments in Oregon State Court

Oregon law governs all actions against providers related to reproductive and gender-affirming health care services provided in Oregon, all actions against patients related to reproductive and gender-affirming health care services received in Oregon, and all actions against anyone who provides aid, assistance, resources, or support to a person providing or receiving reproductive or gender-affirming health care services in Oregon.[4]

Provision of a Civil Action to Prevent Interference with Protected Care

When a person interferes with access to a health care facility or disrupts the normal functioning of a health care facility, the health care facility or a person whose access or care is disrupted may bring a civil action against the interfering individual to recover damages and reasonable attorney fees incurred in bringing the action, among other remedies.[5]

PROTECTION OF PROFESSIONAL LIABILITY INSURANCE

Protection against an Insurer's Refusal to Issue Insurance, Increase in Premiums, or Denial of Coverage Based Solely on Providing Protected Care

Malpractice insurers may not impose upon health care providers any adverse action—including sanctions, fines, penalties, rate increases, or denial or revocation of coverage—based solely on the health care provider's participation in reproductive or gender-affirming health care services lawful in

[3] HB 2002 (Or. 2023) (Or. Rev. Stat. §§ 675.070 (psychologists), 675.540 (social workers), 675.745 (professional counselors and marriage therapists), 677.190 (physicians), 678.010 (nurses), 685.110 (naturopathic physicians), 689.405 (pharmacists)).

[4] HB 2002 (Or. 2023) (Or. Rev. Stat. § 15.430). Another state's law that authorizes an action for receiving, providing, or aiding or abetting reproductive or gender-affirming health care is against Oregon public policy. HB 2002 (Or. 2023) (Or. Rev. Stat. § 24.500).

[5] HB 2002 (Or. 2023) (Or. Rev. Stat. §§ 166.119, 30.851). Oregon's shield laws do not provide a right to "clawback" litigation, which is offered in other shield law states and permits an individual who has been sued in another state related to reproductive or gender-affirming health care to recover damages, including the amount of the judgment issued against them in another state.

Oregon, or based on an adverse action taken against a health care provider's license in another state as a result of participating in reproductive or gender-affirming health care services lawful in Oregon, regardless of whether the care was lawful where the patient was located or the service was provided.[6]

PRIVACY OF DATA RELATED TO REPRODUCTIVE AND GENDER-AFFIRMING CARE[7]

Protection Against Disclosure of Providers' Personal Information

Individuals who are authorized in Oregon to provide reproductive or gender-affirming health care services may participate in the state's address confidentiality program to protect their name, home address, professional address or location from public records disclosure.[8]

[6] HB 2002 (Or. 2023) (Or. Rev. Stat. § 676.313).

[7] In 2023, Oregon also enacted its Consumer Privacy Act, which provides consumers with rights to control the use of their data generally and may encompass information related to reproductive and gender-affirming health care.

[8] HB 2002 (Or. 2023) (Or. Rev. Stat. §§ 192.345(43), 192.822, 676.177(5)).

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
crhlp@law.ucla.edu

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