

Rhode Island Shield Law Fact Sheet

AUGUST 2024

For both reproductive and gender-affirming health care, Rhode Island’s shield laws provide protections against out-of-state investigations and prosecutions, professional discipline, civil liability, and adverse consequences related to health care providers’ professional liability insurance. Rhode Island’s shield laws also provide limited protections for the privacy of data related to reproductive and gender-affirming health care.

PROTECTION AGAINST OUT-OF-STATE INVESTIGATIONS AND PROSECUTIONS

Protection Barring State Agency/Employee Assistance

A public agency, including a law enforcement agency, and any person acting on behalf of a public agency may not provide any information or use resources in furtherance of an investigation or proceeding seeking to impose civil, criminal, or administrative liability upon a person or entity for engaging in or assisting “legally protected healthcare activity”—receiving or providing reproductive or gender-affirming health care services lawful in Rhode Island.¹

Protection against Extradition and Arrests

The Governor may not comply with a request received from another state to issue a warrant for the arrest or surrender of any person charged with a criminal violation involving engaging in or aiding or assisting legally protected health care activity, except if required by federal law or if the person was physically present in the requesting state at the time of the alleged offense and fled from that state.²

¹ H7577 (R.I. 2023) (R.I. Gen. Laws §§ 23-101-6, 23-101-2 (defining “legally protected healthcare activity”)); *see also* R.I. Gen. Laws § 23-101-7 (law enforcement officers and employees may not provide information or assistance to a federal or another state’s law enforcement agency, or to any private citizen in relation to an investigation into legally protected health care activity, if the activity would be lawful if it occurred in Rhode Island).

² H7577 (R.I. 2023) (R.I. Gen. Laws § 12-9-36).

Further, an official may not arrest someone if the official has information or knowledge that the arrest is related to criminal liability based on engaging in or aiding and assisting legally protected health care activity.³

Protection against Issuance of Search Warrants, Subpoenas, and Witness Summons

Except as required by federal law, a court may not order a person in Rhode Island to give testimony or produce documents in any out-of-state proceeding related to a “hostile litigation”—a legal action where liability is based on engaging in or aiding and assisting legally protected health care activity and any part of the activity occurred in Rhode Island.⁴ Additionally, a judicial official may not issue a summons or a subpoena related to hostile litigation.⁵

PROTECTION FROM PROFESSIONAL DISCIPLINE

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

A board may not take disciplinary action—including refusing to issue or renew a licensure application, revoking or suspending a license, or imposing a fine—against a health care provider certified, registered, or licensed in Rhode Island based solely on the provider’s engagement in or assistance with legally protected healthcare activity or based on a legal or disciplinary action in another state because of the provider’s engagement in or assistance with legally protected healthcare activity.⁶

Protection against Denial or Restriction of Facility Privileges

A hospital may not take any adverse action, including refusing to grant or renew staff privileges, based on an adverse action against a healthcare provider’s license or clinical privileges because of the provider’s engagement in or assistance with legally protected healthcare activity.⁷

³ H7577 (R.I. 2023) (R.I. Gen. Laws § 23-101-7(b)). This prohibition does not apply if the official responding to an arrest warrant believes in good faith it is valid in Rhode Island or if there is a compelling need for action because of an imminent danger to public safety or potential destruction of evidence. R.I. Gen. Laws § 23-101-7(c).

⁴ H7577 (R.I. 2023) (R.I. Gen. Laws §§ 23-101-5(a), 23-101-2).

⁵ H7577 (R.I. 2023) (R.I. Gen. Laws §§ 23-101-5, 23-101-2). Anyone served with a subpoena seeking information concerning legally protected healthcare activity related to hostile litigation may move to modify or quash the subpoena. R.I. Gen. Laws § 23-101-5.

⁶ H7577 (R.I. 2023) (R.I. Gen. Laws § 5-37.8-1). Additionally, a board may not make public on a healthcare provider’s profile any record of legal or disciplinary action in another state resulting from providing or assisting in the provision of reproductive or gender-affirming health care services lawful in Rhode Island. R.I. Gen. Laws § 5-37.8-1(c).

⁷ H7577 (R.I. 2023) (R.I. Gen. Laws § 23-17-53(f)). An employer, agency, or institution also may not take any adverse action including terminating employment or ability to practice as a result of disciplinary action in another state resulting from the provider’s engagement in or assistance with legally protected healthcare activity. R.I. Gen. Laws § 5-37.8-3.

PROTECTION AGAINST CIVIL LIABILITY

Protection against Application or Enforcement of Another State’s Laws or Judgments in Rhode Island State Court

Rhode Island courts may not give force or effect to any out-of-state judgment in connection with hostile litigation if the court that issued the judgment did not have personal jurisdiction over the defendant, did not have jurisdiction over the subject matter, or did not provide due process of law.⁸

Rhode Island law applies to any case or controversy involving engaging in or aiding and assisting legally protected health care activity.⁹

Provision of a “Clawback Lawsuit” to Recover Damages from Litigation related to Protected Care

A person against whom hostile litigation is filed may bring a civil action to recover the amount of any judgment against them in connection with the hostile litigation, and any expenses, costs, and reasonable attorney’s fees.¹⁰

PROTECTION OF PROFESSIONAL LIABILITY INSURANCE AND PROTECTION RELATED TO HEALTH PLANS

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

An insurer that issues malpractice insurance for a provider certified, registered, or licensed in Rhode Island may not refuse to issue a malpractice policy, charge higher rates for a malpractice policy, adjust a provider’s risk classification or premiums charges, cancel or terminate a malpractice policy, or impose any sanctions, fines, penalties, or rate increases because the insured engaged in or assisted with legally protected healthcare activity in Rhode Island.¹¹

Protection of Contracts with Health Plans and Insurers

A carrier may not refuse to credential an applicant or terminate a healthcare provider’s participation in a provider network based solely on the provider’s engagement in legally protected healthcare activity.¹²

⁸ H7577 (R.I. 2023) (R.I. Gen. Laws § 23-100-4).

⁹ H7577 (R.I. 2023) (R.I. Gen. Laws § 23-100-8).

¹⁰ H7577 (R.I. 2023) (R.I. Gen. Laws §§ 23-101-3, 23-100-2). A person’s employer may also bring a civil action if the legally protected healthcare activity challenged in the hostile litigation was performed within the scope of the person’s employment.

¹¹ H7577 (R.I. 2023) (R.I. Gen. Laws §§ 5-37.8-2, 5-37.8-1).

¹² H7577 (R.I. 2023) (R.I. Gen. Laws § 5-37.8-2(b)).

PRIVACY OF MEDICAL INFORMATION AND OTHER DATA RELATED TO ABORTION AND GENDER-AFFIRMING CARE

Protection Against Disclosure of Data by Businesses in Rhode Island

A business incorporated in or that has its principal place of business in Rhode Island may not knowingly provide information or comply with an out-of-state subpoena or other legal process that the business has reason to believe relates to legally protected healthcare activity or enforcement of another state's law that asserts liability for legally protected healthcare activity.¹³

Protection Against Disclosure of Providers' Personal Information

The Department of Health and the Board of Medicine may not include the personal residence address, telephone number, email address, or other contact information of licensed professionals on any public provider profiles and registries.¹⁴

¹³ H7577 (R.I. 2023) (R.I. Gen. Laws § 23-101-5). A business entity served with an out-of-state subpoena or other legal process may request a sworn statement that the requestor does not seek information relating to an investigation into or enforcement of another state's law that assert liability for legally protected healthcare activity. R.I. Gen. Laws § 23-101-5.

¹⁴ H7577 (R.I. 2023) (R.I. Gen. Laws § 5-37-9.2(c), R.I. Gen. Laws § 23-1-42.2).

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

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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