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A BILL

24-207

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To amend the AIDS Health-Care Response Act of 1986 to remove the court’s ability to collect and release surveillance information and data collected by the Department of Health for statistical and public health purpose concerning incidents of HIV and AIDS within the District of Columbia and to add a provision for HIV Surveillance Data and Information protection; and to amend the District of Columbia Health Occupations Revision Act of 1985 to clarify the role of doulas and to establish criteria for doula certification, and to provide the criteria under which Health Occupations Boards may consider convictions of applicants and those licensed, certified or registered by a Health Occupations Board; to amend the Department of Health Functions Clarification Act of 2001 to create an Advisory Committee on Maternal Care Professionals; and to amend the Specialty Drug Copayment Limitations Act of 2016 to allow cost sharing to be applied to an insured’s maximum out of pocket obligation.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

act may be cited as “HIV/AIDS Data Privacy Protection and Health Occupation Revision Clarification Amendment Act of 2022”.

Sec. 2. Section 6 of the AIDS Health-Care Response Act of 1986, effective June 10, 1986 (D.C. Law 6-121; D.C. Official Code § 7-1605), is amended to read as follows:

"Sec. 6. Confidentiality of medical records and information.

“The Director shall use the records incident to a case of HIV infection or AIDS reported under this act for statistical and public-health purposes only. Identifying information contained

31 in these records, as well as all identifying information obtained, collected, or created by the
32 Department of Health ("Department") shall be disclosed by the Director only when essential to
33 safeguard the physical health of others. No person shall otherwise disclose such identifying
34 information unless the person about whom the information pertains gives his or her prior
35 written permission. All identifying information obtained, collected, or created by the
36 Department under this act shall not be discoverable or admissible as evidence in a civil or
37 criminal action unless the person about whom the information pertains gives his or her prior
38 written permission.”.

39 Sec. 3. The District of Columbia Health Occupations Revision Act of 1985, effective
40 March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

41 (a) Section 101(6C) (D.C. Official Code § 3-1201.01(6C)) is amended to read as follows:

42 “(6C)(A) "Doula" means an individual certified by the Board of Medicine to
43 provide culturally competent and continuous physical, emotional, and informational support to a
44 birthing parent during pregnancy, labor, birth, and postpartum, including:

45 “(i) Providing support to pregnant individuals and their families,
46 including surrogates and adoptive parents;

47 “(ii) Conducting prenatal and postpartum visits;

48 “(iii) Accompanying pregnant individuals to health care and social
49 service appointments;

50 “(iv) Connecting individuals to medical, community-based, or
51 government funded resources, including those addressing social determinants of health; and

52 “(v) Providing support to individuals following either the loss of
53 pregnancy or birth of a child for up to one year.

54 “(B) A doula may not:

55 “(i) Perform clinical tasks or replace trained licensed medical
56 professionals; or

57 “(ii) Engage in the practice of medicine as defined in section
58 102(7).

59 (b) Section 203(a) (D.C. Official Code § 3-1202.03(a)) is amended as follows:

60 (1) Paragraph (2) is amended as follows:

61 (A) Strike the phrase “the practice of medicine, the practice of doulas,”
62 and insert the phrase “the practice of medicine,” in its place.

63 (B) Strike the phrase “and the practice of certified professional midwives
64 with the advice of the Advisory Committee on Certified Professional Midwives.” and insert the
65 phrase “and the practices of doulas and certified professional midwives with the advice of the
66 Advisory Committee on Maternal Care Professionals.” in its place.

67 (2) Paragraph (8) is amended as follows:

68 (A) Sub-paragraph (H) is amended by striking the phrase “Advisory
69 Committee on Certified Professional Midwives” and inserting the phrase “Advisory Committee
70 on Maternal Care Professionals” in its place.

71 (B) Sub-paragraph (I) is amended by striking the period and inserting the
72 phrase “in accordance with guidelines issued by the Advisory Committee on Maternal Care
73 Professionals.” in its place.

74 (c) Section 503 (D.C. Official Code § 3-1205.03) is amended as follows:

75 (1) Subsection (a)(1) is amended by striking the phrase “offense that is directly
76 related to the occupation for which the license, registration, or certification is sought, pursuant to
77 a determination made under section 514(f)(2)” and inserting the phrase “offense that is related to
78 the occupation for which the license, registration, or certification is sought;” in its place.

79 (2) Subsection (e) is repealed.

80 (d) Section 504 (D.C. Official Code § 3-1205.04) is amended as follows:

81 (1) The existing subsection (d-1) is redesignated as subsection (d-2).

82 (2) A new subsection (d-1) is added to read as follows:

83 “(d-1) An individual applying for a certificate to practice as a doula under this act shall
84 establish to the satisfaction of the Board of Medicine that the individual has:

85 “(1) Completed a training program from a nationally or internationally recognized
86 certifying body, approved by the Department of Health for training doulas;

87 “(2) Participated in a minimum of 3 births (either vaginal or cesarean);

88 “(3) A current Cardiopulmonary Resuscitation certification for both adults and
89 infants; and

90 “(4) Satisfied any other requirements as determined by rules issued pursuant to
91 section 302.”.

92 (e) Section 509a(d)(10) (D.C. Official Code § 3-1205.09a(d)(10)) is amended by striking
93 the phrase “offense that is directly related to the occupation for which the license is sought,
94 pursuant to a determination made under section 514(f)(2);” and inserting the phrase “offense that
95 is related to the occupation for which the license is sought;” in its place.

96 (f) Section 514 (D.C. Official Code § 3-1205.14) is amended as follows:

97 (1) Subsection (a) is amended as follows:

98 (A) The lead-in language is amended by striking the phrase “the actions”
99 and inserting the phrase “the disciplinary actions” in its place.

100 (B) Paragraph (4) is amended to read as follows:

101 “(4) Has been convicted of an offense that is related to the occupation for
102 which the license, registration, or certification is sought or held;”.

103 (2) Subsection (f) is amended to read as follows:

104 “(f) When determining whether to deny an application or initiate disciplinary
105 action against a person permitted to practice a health occupation regulated by a board for a

106 conviction pursuant to this subsection, a board shall consider:

107 “(1) Whether the offense is related to the occupation for which the license,
108 registration, or certification is sought or held by considering the duties and responsibilities of the
109 health occupation;

110 “(2) The nature and seriousness of the offense;

111 “(3) The length of time that has elapsed since the offense was committed;

112 “(4) The age of the person at the time the offense was committed;

113 “(5) Any evidence produced by the applicant, licensee, registrant, person
114 certified, or person permitted by this act to practice in the District concerning their rehabilitation
115 and fitness, including:

116 “(A) Evidence as to whether the applicant, licensee, registrant,
117 person certified, or person permitted by this act to practice in the District has recidivated; and

118 “(B) Evidence demonstrating compliance with any terms and
119 conditions of probation, supervised release, or parole;

120 “(6) Evidence of work history, particularly any training or work
121 experience related to the occupation; and

122 “(7) Letters of reference.

123 (3) Subsection (g) is amended to read as follows:

124 “(g) By January 1 of each year, the Mayor shall submit a report to the Council that

125 includes the following information from the prior fiscal year for each board regulating a health
126 occupation:

127 (1) The number of applications for a license, registration, or certification that
128 were denied based upon the applicant’s criminal conviction, including information on which
129 criminal offense formed the basis for the denial, whether the applicant requested a hearing on the
130 notice of intent to deny the application, and whether the applicant was represented by counsel;
131 and

132 (2) The number of licensees, registrants, persons certified, or persons permitted
133 by this act to practice in the District whose licenses, registrations, or certifications were revoked
134 or suspended based upon the applicant’s criminal conviction, including information on which
135 criminal offense formed the basis for the decision, whether the person requested a hearing on the
136 notice of intent to take disciplinary action, and whether the person was represented by counsel.

137 (f) Section 515(a)(1)(B) (D.C. Official Code § 3-1205.15(a)(1)(B)) is amended by
138 striking the phrase “offense that is directly related to the occupation for which the license,
139 registration, or certification is held, pursuant to a determination made under section 514(f)(2);”
140 and inserting the phrase “offense that is related to the occupation for which the license,
141 registration, or certification is held;” in its place.

142 (2) Subsection (b) is amended by striking the phrase “action, the right of the
143 licensee, registrant, person certified, or person permitted by this act to practice in the District to

144 request a hearing, and legal resources available in the District.” and inserting the phrase “action,
145 and the right of the licensee, registrant, or person certified to request a hearing.” in its place.

146 (g) Section 516(a) (D.C. Official Code § 3-1205.16(a)) is amended by striking the phrase
147 “in person, and shall include information on legal resources available in the District.” and
148 inserting the phrase “in person.” in its place.

149 (h) Section 519 (D.C. Official Code § 3-1205.19) is amended as follows:

150 (1) Subsection (a-1) is repealed.

151 (2) Subsection (d) is amended by striking the phrase “, and shall include
152 information on legal resources available in the District” and inserting a period in its place.

153 (i) Section 521(b)(1) (D.C. Official Code § 3-1205.21(b)(1)) is amended by striking the
154 phrase “offense that is directly related to the occupation for which the license, registration, or
155 certification was held, pursuant to a determination made under section 514(f)(2),” and inserting
156 the phrase “offense that is related to the occupation for which the license, registration, or
157 certification was held,” in its place.

158 (j) Section 523 (D.C. Official Code § 3-1205.23) is amended by striking the phrase
159 “offense that is directly related to the occupation for which the license, registration, or
160 certification is held, pursuant to section 514(f)(2),” and inserting the phrase “offense that is
161 related to the occupation for which the license, registration, or certification is held,” in its place.

162 (k) Section 862(a)(3) (D.C. Official Code § 3-1208.62(a)(3)) is amended by striking the

163 phrase “an offense that is directly related to the practice of veterinary medicine, pursuant to a
164 determination made under section 514(f)(2).” and inserting the phrase “an offense that is related
165 to the occupation for which the license is sought, including an offense for animal cruelty.” in its
166 place.

167 Sec. 4. Section 4949 of the Department of Health Functions Clarification Act of 2001,
168 effective June 17, 2020 (D.C. Law 23-97; D.C. Official Code § 7-743.09), is amended to read as
169 follows:

170 “Sec. 4949. Advisory Committee on Maternal Care Professionals.

171 “(a)(1) There is established an Advisory Committee on Maternal Care Professionals to
172 consist of 7 members as follows:

173 “(A) The Director of the Department of Health, or designee;

174 “(B) Two certified professional midwives, as that term is defined in
175 section 101(1D) of the District of Columbia Health Occupations Revision Act of 1985, effective
176 March 25, 1986 (D.C. law 6-99; D.C. Official Code § 3-1201.01(1D));

177 “(C) One doula as that term is defined in section 101(6C) of the District of
178 Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. law 6-99;
179 D.C. Official Code § 3-1201.01(6C));

180 “(D) One licensed physician who is an obstetrician certified by the
181 American Board of Obstetrics and Gynecology and who has professional experience working

182 with certified professional midwives or other community-based midwives;

183 “(E) One certified nurse-midwife or certified midwife as those terms are
184 defined in section 101(1C) and (1B-i) of the District of Columbia Health Occupations Revision
185 Act of 1985, effective March 25, 1986 (D.C. law 6-99; D.C. Official Code § 3-1201.01(1C),
186 (1B-i)), who has worked in a non-hospital setting or who has had professional experience
187 working with certified professional midwives; and

188 “(F) One consumer member who has had experience with either
189 midwifery or doula services.

190 “(2) Individuals appointed in accordance with paragraph (1) of this subsection
191 who are required to be licensed or certified shall be licensed or certified to practice their
192 respective professions in the District.

193 “(b) Of the appointees to the Advisory Committee on Maternal Care Professionals, other
194 than the Director of the Department of Health, 3 shall serve an initial term of 2 years and 3 shall
195 serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

196 “(c) The Advisory Committee on Maternal Care Professionals shall advise the Board of
197 Medicine on:

198 “(1) Certifying doulas and regulating the practice of doulas in the District;

199 “(2) Regulating the practice of certified professional midwifery in the District and
200 developing guidelines for licensing certified professional midwives that shall:

201 “(A) Be consistent with the standards of practice and ethical conduct
202 established by the National Association of Certified Professional Midwives and the North
203 American Registry of Midwives ("NARM"), but these practice guidelines shall not be interpreted
204 to set, establish, define, enumerate, or otherwise lower the applicable standard of care for a
205 certified professional midwife or certified nurse-midwife;

206 “(B) Define expected standards of practice and conduct;

207 “(C) Specify a process for a certified professional midwife to obtain
208 appropriate screening and testing for clients, including laboratory tests, urinalysis, and
209 ultrasounds;

210 “(D) Specify a process for a certified professional midwife to obtain and
211 administer antihemorrhagic agents, including:

212 “(i) Pitocin, oxytocin, misoprostol, and methergine;

213 “(ii) Intravenous fluids, neonatal injectable vitamin K, newborn
214 antibiotic eye prophylaxis, oxygen, intravenous antibiotics for Group B Streptococcal antibiotic
215 prophylaxis, Rho (D) immune globulin, local anesthetic, epinephrine, and terbutaline for non-
216 reassuring fetal heart tones and cord prolapse pending transport;

217 “(iii) Globulin, local anesthetic, and epinephrine; and

218 “(iv) Other pharmaceutical agents, consistent with either the scope
219 of the practice of midwifery, or a prescription issued by a health professional for a patient-client

220 of a midwife, that are approved by the Board of Medicine;

221 “(E) Authorize medical device distributors and manufacturers to issue
222 breast pumps, compression stockings and belts, and maternity belts to certified professional
223 midwives;

224 “(F) Require a certified professional midwife to provide each client with a
225 signed informed consent form that describes the certified professional midwife’s qualifications,
226 education, a copy of the certified professional midwife’s emergency plan, whether the certified
227 professional midwife carries professional liability insurance, and the benefits and risks of birth in
228 the setting of choice of the patient-client, and maintain a record of each patient-client's signed
229 informed consent form;

230 “(G) Require a certified professional midwife, subject to the consent of the
231 patient-client, to report the patient-client's data to a national data registry, such as the Midwives
232 Alliance of North America Statistical Registry or the AABC Perinatal Registry;

233 “(H) Adopt professional continuing education requirements for certified
234 professional midwives consistent with those required by NARM for recertification;

235 “(I) Establish requirements for peer review consistent with those required
236 by NARM for recertification under which information disclosed for peer review shall be
237 protected in accordance with section 6 of the Medical Records Act of 1978, effective September
238 29, 1978 (D.C. Law 2-112; D.C. Official Code § 44-805);

239 “(J) Require the certified professional midwife to file a birth certificate for
240 each live birth attended by a certified professional midwife, in accordance with section 108 of
241 the Vital Records Modernization Amendment Act of 2018, effective October 30, 2018 (D.C.
242 Law 22-164; D.C. Official Code § 7-231.08); and

243 “(d) Guidelines developed pursuant to subsection (c)(2) of this section shall not be
244 interpreted to set, establish, define, enumerate, or otherwise lower the applicable standard of care
245 for a licensed physician, licensed naturopathic physician, certified professional midwife, certified
246 nurse-midwife, certified midwife, doula, or licensed basic or advanced emergency medical
247 technician.

248 “(e) Guidelines currently approved by the Board of Medicine under section 203 of the
249 District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C.
250 Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are
251 submitted to and approved by the Board of Medicine.”.

252 Sec. 5. Section 3a(c) of the Specialty Drug Copayment Limitation Act of 2016, effective
253 April 7, 2017 (D.C. Law 21-248; D.C. Official Code § 48-855.02a (c) is amended by striking the
254 phrase “insured’s deductible obligation.” and inserting the phrase “insured’s deductible and out
255 of pocket maximum obligations.” in its place.

256 Sec. 6. Fiscal Impact Statement

ENGROSSED ORIGINAL

257 The Council adopts the fiscal impact statement in the committee report as the fiscal
258 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
259 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

260 Sec. 7. Effective Date

261 This act shall take effect following approval by the Mayor (or in the event of veto by the
262 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
263 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
264 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
265 Columbia Register.