

COMMONWEALTH OF MASSACHUSETTS  
BOARD OF REGISTRATION IN MEDICINE

POLICY 2022-06

POLICY IMPLEMENTING CHAPTER 127,  
AN ACT EXPANDING PROTECTIONS FOR REPRODUCTIVE AND  
GENDER AFFIRMING CARE

September 22, 2022

On July 29, 2022, Governor Charles D. Baker signed St. 2022, c.127 “An Act Expanding Protections for Reproductive and Gender Affirming Care” (Chapter 127). Chapter 127 asserts that “Access to reproductive health care services and gender-affirming health care services is a right secured by the constitution and the laws of the commonwealth. Interference with this right, whether or not under color of law, is against the public policy of the commonwealth.”

The Board of Registration in Medicine (Board) adopts this policy to implement the provisions of Chapter 127 specific to the Board’s authority and functions.

**1. Definitions**

The following terms in this policy are defined as set forth in M.G.L. c. 9A, § 1 as amended by Chapter 127 and c. 12, § 11½, as added by Chapter 127:

**“Gender-affirming health care services”** means 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.

**“Reproductive health care services”** means 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. MGL c. 12, § 11½ and 11¾.

**2. No Physician or Acupuncturist Will Be Disqualified from Licensure for Providing or Assisting with Reproductive Health Care Services in Massachusetts.**

No person shall be disqualified from licensure by the Board for providing or assisting in providing reproductive health care services or gender-affirming health care services, so long as the services provided would have been lawful in Massachusetts and are consistent with standards for good professional practice in Massachusetts.

The Board authorizes its Licensing Division to screen all license applications, including renewals, with one of the following events in the applicant’s history.

1. Conviction of a criminal offense in another state
2. Civil liability in another state

3. Investigation in progress in another state
4. Professional sanction in another state
5. Disciplinary action in another state

The Licensing Division shall preliminarily determine whether conduct underlying the event(s) in the applicant's history appear to involve providing, assisting in the provision of, seeking or obtaining reproductive health care services or gender-affirming health care services. If so, the Licensing Division shall notify the applicant of the provisions of Chapter 127 and this Policy and shall provide an opportunity for the applicant to submit additional information that may aid the Board in determining whether Chapter 127 applies. The Licensing Division shall refer the application, including any additional information submitted by the applicant to the Board's Division of Law and Policy (DLP) in accordance with Paragraph 4 of this Policy. The Licensing Division shall take no negative action against the applicant and shall not refer the applicant to the Licensing Committee of the Board or the Division of Enforcement (DOE) on the basis of event(s) where the conduct would have been lawful in Massachusetts and consistent with good professional practice in Massachusetts.

### **3. No Physician or Acupuncturist Will Be Subject to Discipline for Providing or Assisting with Reproductive Health Care Services in Massachusetts**

No person shall be subject to discipline by the Board for providing or assisting in providing reproductive health care services or gender-affirming health care services, so long as the services provided would have been lawful in Massachusetts and are consistent with standards for good professional practice in Massachusetts.

The Board authorizes its Data Repository Unit (DRU) and the DOE to preliminarily screen all documents received by each respectively for the following events concerning a person licensed by the Board:

1. Conviction of a criminal offense in another state;
2. Civil liability in another state;
3. Investigation in progress in another state;
4. Professional sanction in another state;
5. Disciplinary action in another state; and
6. Report or complaint submitted to the Board by any person, agency or entity concerning conduct in another state.

The DOE and DRU shall preliminarily determine whether conduct underlying the event(s) in the applicant's history appear to involve providing, assisting in the provision of, seeking or obtaining reproductive health care services or gender-affirming health care services. If so, the DOE and DRU shall notify the licensee of the information received and of the provisions of Chapter 127, and shall provide an opportunity for the licensee to submit additional information that may aid the Board in determining whether Chapter 127 applies. The DOE and DRU shall refer the information, including any additional information submitted by the licensee, to the DLP in accordance with Paragraph 4 of this Policy. The DRU shall take no negative action against the licensee, shall not refer the person to the Enforcement Division, and shall not publish information on a physician's public profile on the basis of event(s) where the conduct would have been lawful in Massachusetts

and consistent with good professional practice in Massachusetts. The DOE shall not docket a complaint or pursue any disciplinary action on the basis of event(s) where the conduct would have been lawful in Massachusetts and consistent with good professional practice in Massachusetts.

**4. DLP Review of events that involve providing, assisting in the provision of, seeking or obtaining Reproductive Health Care Services or Gender-affirming Health Care Services**

The Board directs DLP to assist BORIM employees, appointees and any person acting on behalf of the Board with determining whether conduct that involves providing, assisting in the provision of, seeking or obtaining reproductive health care services or gender-affirming health care services would have been lawful in Massachusetts and consistent with good professional practice in Massachusetts. DLP shall evaluate the information provided and determine whether the conduct would be lawful pursuant to M.G.L. c. 112, §§ 12K through 12R, and whether the information includes any allegation of failure to comport with good professional practice. In the event that medical expertise is necessary to determine good professional practice or applicability of M.G.L. c. 112, §§ 12N, DLP shall seek consultation with the Board's Chair or the Chair's designee.

The date for determining Massachusetts law will be the date on which the reproductive health care services or gender-affirming health care services were provided or obtained.