

## THOUGHT LEADERSHIP

LEGAL UPDATES

PUBLISHED: APRIL 10, 2025

### Service

Healthcare Providers

### Industry

Healthcare

### Professionals

CRYSTAL M. BLOOM

BOSTON:

617.598.6783

CRYSTAL.BLOOM@

HUSCHBLACKWELL.COM

REBECCA RODMAN

BOSTON:

617.279.8990

REBECCA.RODMAN@

HUSCHBLACKWELL.COM

KASEY A. CIOLFI

BOSTON:

617.598.6792

KASEY.CIOLFI@

HUSCHBLACKWELL.COM

# Massachusetts Codifies 'Shield Law' Protections for Physicians

On April 9, 2025, emergency amendments filed by the Massachusetts Board of Registration in Medicine (BORIM) became final, enshrining protections for Massachusetts' providers for the delivery of reproductive healthcare services and gender affirming healthcare services. The emergency amendments to 243 CMR 1.00: *Disciplinary Proceedings for Physicians* and 243 CMR 2.00: *Licensing and the Practice of Medicine* were filed by the BORIM on January 9, 2025, in order to codify Massachusetts' Shield Law protections for physicians licensed by BORIM.

### Massachusetts' Shield Law

In 2022, Massachusetts passed HB 5090, *An Act Expanding Protections for Reproductive and Gender-Affirming Care*, also known as Massachusetts' Shield Law. This legislation follows decades of legislation in Massachusetts protecting access to both receive abortion care (Mass. General Laws c.112 § 12L) and provide it (Mass. General Laws c.112 § 12M). Given these legal protections in the Commonwealth, and the uncertainty facing abortion and gender-affirming care access in the United States after the Dobbs' decision, Massachusetts sought to further protect healthcare providers from legal actions, penalties, or extradition requests related to these services.

Massachusetts' Shield Law applies to legally protected healthcare activity, which is defined as:

Exercising or attempting to exercise the right to reproductive healthcare services or gender-affirming healthcare in Massachusetts; or

Helping another to exercise or attempt to exercise the right to reproductive healthcare services or gender-affirming healthcare in Massachusetts.

The Shield Law protects Massachusetts healthcare providers from sanctions for providing or assisting in the provision of legally protected reproductive healthcare services or gender-affirming healthcare services in Massachusetts, and for any judgment, discipline, or other sanction arising from such healthcare services wherever they were provided, if the services provided have been lawful and consistent with good medical practice if they occurred entirely in the Commonwealth. With the Shield Law and new BORIM regulations, Massachusetts' providers now are afforded a greater level of protection in order to reach the many patients who seek their expertise.

### **Proposed amendments to the BORIM regulations**

Each of the amendments described below applies to the provision of (1) reproductive healthcare services or gender-affirming healthcare services, as defined at M.G.L. c. 12, § 11I½, (2) that would have been lawful had they been provided in Massachusetts and (3) were provided in a manner consistent with standards for good professional practice in Massachusetts (hereinafter “protected services”).

#### ***Disciplinary proceedings for physicians***

A new section 1.03(5)(c) in 243 CMR 1.00 prohibits disciplinary action for the provision of protected services. This change would prohibit BORIM from docketing or taking action on any complaint that is based solely on a physician’s provision of protected services.

#### ***Licensure of physicians***

BORIM has amended 243 CMR 2.04(16)(a) to ensure that no person will be disqualified from licensure as a physician in Massachusetts for providing or assisting in providing protected services.

#### ***Physician profile program***

Massachusetts currently requires BORIM to maintain physician profiles, allowing public access to information on the education, training clinical experience, criminal and disciplinary history, and malpractice claims of all current and former licensed physicians in Massachusetts. The new exemption at 243 CMR 2.15(2) explicitly prohibits the inclusion of information arising from the provision or assistance in providing protected services.

#### ***What this means to you***

These amendments were issued as emergency revisions to grant immediate protection to Massachusetts providers in the ongoing delivery of essential healthcare services across our communities. While the amended regulations became effective on January 9, 2025 when they were filed with the secretary of state, they have since been finalized following a three-month comment period.

**Contact us**

If you have any questions about this development or other issues, contact Crystal Bloom, Rebecca Rodman, Kasey Ciolfi, another member of our Massachusetts-based Healthcare team, or your local Husch Blackwell attorney.