

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1077 Session of
2011

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AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES,
AS AMENDED, FEBRUARY 6, 2012

AN ACT

1 Providing for ultrasound test requirements to determine
2 gestational ages of unborn children; establishing the right
3 to view ultrasound image and ultrasound video of unborn child
4 and the right to observe or hear the fetal heartbeat;
5 providing for powers and duties of the Department of Health
6 and for duties of physicians performing abortions; requiring
7 certain reports to be filed with the Department of Health;
8 imposing administrative sanctions and criminal penalties; and
9 providing for remedies.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Short title.

13 This act shall be known and may be cited as the Women's

1 Right-to-Know Act.

2 Section 2. Findings.

3 The General Assembly finds and declares as follows:

4 (1) Many women are unaware of the state of development
5 of their unborn child.

6 (2) An ultrasound test is a medical procedure commonly
7 utilized during a woman's pregnancy to determine fetal
8 gestational age, ~~fetal measurements~~; FETAL MEASUREMENTS; the ←
9 progress of fetal development; and fetal health, INCLUDING ←
10 THE PRESENCE OR ABSENCE OF A FETAL HEARTBEAT.

11 ~~(3) The fetal heartbeat also provides useful information~~ ←
12 ~~on fetal health.~~

13 ~~(4)~~ AN ULTRASOUND TEST IS ALSO COMMONLY DONE PRIOR TO AN ←
14 ABORTION TO DETERMINE GESTATIONAL AGE AND THE LOCATION OF THE
15 PREGNANCY.

16 (4) AN ULTRASOUND CAN PROVIDE USEFUL INFORMATION
17 REGARDING THE VIABILITY OF THE PREGNANCY AND THE RISK OF
18 NATURAL MISCARRIAGE OR ECTOPIC PREGNANCY.

19 (5) The factual information provided by ultrasound
20 tests, including fetal heartbeat, is relevant to any decision
21 regarding a pregnancy and is relevant to the State's interest
22 in ensuring that informed consent is provided.

23 ~~(5)~~ (6) ACCORDING TO THE NATIONAL INSTITUTES OF HEALTH, ←
24 AMONG WOMEN WHO KNOW THEY ARE PREGNANT, THE MISCARRIAGE RATE
25 IS ABOUT 15-20%, WITH MOST OCCURRING DURING THE FIRST SEVEN
26 WEEKS OF PREGNANCY.

27 (7) ABSENT ACCURATE ULTRASOUND TESTING TO DETERMINE
28 GESTATIONAL AGE, CONFIRM AN INTRAUTERINE PREGNANCY AND
29 ESTABLISH THE PRESENCE OR ABSENCE OF CARDIAC ACTIVITY, AN
30 ABORTION MAY BE PERFORMED ON A WOMAN WHO WOULD OTHERWISE

1 MISCARRY NATURALLY OR WHOSE PREGNANCY MAY BE AN ECTOPIC.

2 (8) Abortion is a medical procedure and, as such, it
3 requires the informed consent of the woman undergoing the
4 procedure.

5 ~~(6)~~ (9) A woman considering an abortion has the right to ←
6 receive complete and accurate information regarding the
7 development and health of her unborn child.

8 ~~(7)~~ (10) In recognition of the importance of a woman's ←
9 dignity in making an informed choice, the factual information
10 provided by an ultrasound test should be provided to a woman
11 as an integral part of the informed consent necessary to
12 undergo an abortion.

13 Section 3. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Abortion." The use of any means to terminate the clinically
18 diagnosable pregnancy of a woman with knowledge that the
19 termination by that means will, with reasonable likelihood,
20 cause the death of the unborn child.

21 "Auscultation." The act of listening for sounds made by
22 internal organs of the fetus, specifically for a fetal
23 heartbeat, utilizing an ultrasound transducer and fetal heart
24 rate monitor.

25 "Department." The Department of Health of the Commonwealth.

26 "DVD." A digital versatile disc.

27 "Digital versatile disc." A laser-encoded plastic medium
28 capable of storing a large amount of digital audio, video and
29 computer data.

30 "Fetus." An individual organism of the species homo sapiens

1 from fertilization until live birth.

2 "Gestational age." The age of an unborn child as calculated
3 from the first day of the last menstrual period of the pregnant
4 woman.

5 "HEALTH CARE PRACTITIONER." AN INDIVIDUAL WHO IS AUTHORIZED ←
6 TO PRACTICE SOME COMPONENT OF THE HEALING ARTS BY A LICENSE,
7 PERMIT, CERTIFICATE OR REGISTRATION ISSUED BY A COMMONWEALTH
8 LICENSING AGENCY OR BOARD.

9 "Informed consent." The informed consent provided for under
10 18 Pa.C.S. § 3205 (relating to informed consent).

11 "Medical emergency." As defined in 18 Pa.C.S. § 3203
12 (relating to definitions).

13 "Patient." A pregnant woman who is seeking to have an
14 abortion.

15 "Physician." A person licensed to practice medicine in this
16 Commonwealth. The term includes a medical doctor and a doctor of
17 osteopathy.

18 "Pregnancy." The female reproductive condition of having a
19 developing fetus in the body, which commences with
20 fertilization.

21 "Pregnant." Being in the state of pregnancy.

22 "Ultrasound image." An image produced through the use of an
23 ultrasound machine which is of sufficient quality to be used in
24 determining gestational age.

25 "Unborn child." An individual organism of the species homo
26 sapiens from fertilization until live birth.

27 Section 4. Ultrasound test requirements.

28 (a) Test and waiting period.--Except as set forth in section
29 10, all of the following apply:

30 (1) At least 24 hours before an abortion is to be

1 performed, an ultrasound test which produces an ultrasound
2 image shall be performed upon the patient by or for the
3 physician who is to perform the abortion or the referring
4 physician.

5 (2) The time period under paragraph (1) may run
6 concurrently with the waiting period under 18 Pa.C.S. §
7 3205(a) (relating to informed consent).

8 (b) List.--The physician who is to perform the abortion ~~or,~~ ←
9 the referring physician OR A HEALTH CARE PRACTITIONER DESIGNATED ←
10 BY THE PHYSICIAN shall provide the patient with the list under
11 section 7(a)(3).

12 (c) Basis of determination.--The ultrasound test shall be
13 used to make an accurate determination of gestational age of the
14 unborn child. Determination of gestational age shall be based
15 upon measurement of the unborn child in a manner consistent with
16 standard medical practice ~~in the community~~ in determining ←
17 gestational age. When only the gestational sac is visible during
18 an ultrasound test, gestational age may be based upon
19 measurement of the gestational sac.

20 (d) Documentation of measurements.--

21 (1) A print of the ultrasound image shall be made to
22 document the measurements which have been taken to determine
23 the gestational age of the unborn child.

24 (2) A copy of the print shall be maintained in the
25 patient's medical file at the facility where the abortion is
26 performed for the longer of:

27 (i) seven years; or

28 (ii) the extent required by applicable Federal or
29 State law.

30 (e) Individuals who may perform test.--An ultrasound test

1 may only be performed by one of the following:

2 (1) A physician.

3 (2) An individual who meets all of the following:

4 (i) Regularly conducts ultrasound tests for medical
5 purposes.

6 ~~(ii) Has documented evidence of satisfactory~~ ←
7 ~~completion of a course, including a period of direct~~
8 ~~supervision, in the operation of ultrasound equipment.~~

9 ~~(iii) Has documentary evidence of periodic~~
10 ~~evaluation of proficiency~~ IS A HEALTH CARE PRACTITIONER. ←

11 (f) Physician instructions.--When the physician who orders
12 the ultrasound test refers the patient to another facility, the
13 physician or a ~~licensed~~ health care ~~professional~~ PRACTITIONER to ←
14 whom the physician has delegated responsibility shall, ~~in a~~ ←
15 ~~face to face consultation,~~ do all of the following:

16 (1) Personally furnish the patient with the following
17 materials to take to the person who will conduct that
18 ultrasound test:

19 (i) The ultrasound direction sheet prepared under
20 section 7(a)(4).

21 (ii) The statement to be signed by the patient after
22 her ultrasound test is completed.

23 (iii) The statement to be signed by the person
24 conducting the ultrasound test.

25 (2) Instruct the patient to furnish the information
26 under paragraph (1) to the individual who conducts the
27 ultrasound test.

28 (3) Advise the patient that, IF SHE WISHES TO MOVE ←
29 FORWARD WITH THE ABORTION, she will need to take her
30 statement and the signed statement of the individual who

1 performed the ultrasound test to the physician who is to
2 perform the abortion OR THE HEALTH CARE PRACTITIONER TO WHOM
3 THAT PHYSICIAN HAS DELEGATED RESPONSIBILITY.

4 (g) Fees.--

5 (1) The amount charged for an ultrasound test must be
6 billed separately from the fee for an abortion.

7 (2) The fee for an abortion must be fully refundable if
8 the abortion does not occur.

9 (3) THE ULTRASOUND FEE MUST NOT BE DIFFERENT FOR
10 PATIENTS WHO ELECT TO OBTAIN OR DECLINE AN ABORTION.

11 Section 5. Right to view ultrasound image and observe fetal
12 heartbeat of unborn child.

13 (a) Individual performing ultrasound test.--The individual
14 performing the ultrasound test required under section 4 shall do
15 all of the following:

16 (1) Conduct the ultrasound test, including fetal
17 heartbeat WHEN PRESENT AND DETECTABLE, in a manner which will
18 enable accurate determination of the gestational age and
19 development of the unborn child.

20 (2) Provide the patient with accurate answers to any
21 questions she may have during the performance of the
22 ultrasound. This paragraph includes the presence of ~~external~~
23 ~~members~~ EXTREMITIES, internal organs, AND cardiac activity
24 ~~and the expected norms for an unborn child of given size or~~
25 ~~gestational age.~~

26 (3) INFORM THE PATIENT OF AN ABNORMAL ULTRASOUND
27 FINDING, INCLUDING THE PRESENCE OF A NONVIABLE PREGNANCY OR
28 THE ABSENCE OF AN INTRAUTERINE PREGNANCY, AND PROVIDE
29 INFORMATION AS TO THE STANDARD MEDICAL CARE FOR THE TREATMENT
30 OF SUCH AN ABNORMALITY. IN A CASE SUBJECT TO THIS PARAGRAPH,

1 IF THE INDIVIDUAL PERFORMING THE ULTRASOUND IS NOT QUALIFIED
2 TO PROVIDE THE NECESSARY INFORMATION, THE PATIENT SHALL BE
3 REFERRED TO A PHYSICIAN WHO IS QUALIFIED TO INFORM THE
4 PATIENT OF THE STANDARD MEDICAL CARE FOR THE TREATMENT OF THE
5 ABNORMALITY WITHIN 24 HOURS OF THE ULTRASOUND FINDING.

6 (4) Inform the patient of her right to view the
7 ultrasound test in its entirety while that test is being
8 performed to determine gestational age.

9 ~~(4)~~ (5) Inform the patient of ~~her right to observe the~~ ←
10 ~~fetal heartbeat and, if she exercises that right~~ ALL OF THE ←
11 FOLLOWING:

12 (I) WHETHER A HEARTBEAT WAS DETECTED UPON ULTRASOUND
13 EXAMINATION.

14 (II) WHETHER THE DETECTION OR NONDETECTION OF A
15 HEARTBEAT IS NORMAL FOR THE DOCUMENTED GESTATIONAL AGE.

16 (III) THE PATIENT'S RIGHT TO OBSERVE THE FETAL
17 HEARTBEAT, WHEN PRESENT AND DETECTABLE.

18 (6) IF THE PATIENT EXERCISES THE RIGHT UNDER PARAGRAPH
19 (5) (III), make observable the live real-time heartbeat, ~~when~~ ←
20 ~~present,~~ for the patient to observe. If the auscultation is
21 performed, the patient ~~must~~ SHALL also be informed of her ←
22 right to hear the fetal heartbeat, when present, in live real
23 time.

24 ~~(5)~~ (7) Position the screen so that the patient is able ←
25 to view the ultrasound test in its entirety, ~~with a view of~~ ←
26 ~~her unborn child,~~ while that test is being conducted to
27 determine gestational age. The patient is not required to
28 view the screen.

29 ~~(6)~~ (8) Provide two prints TO THE PATIENT, in separate ←
30 sealed envelopes, of the ultrasound image ~~to be~~ used to ←

1 accurately determine gestational age. ~~One print shall be~~ ←
2 ~~provided to the patient, and one print shall be provided to~~
3 ~~the physician who is to perform the abortion.~~

4 ~~(7)~~ (9) Sign and date a statement indicating the time of ←
5 day when the ultrasound test was performed. ~~The statement~~ ←
6 ~~must read~~ AND WHICH READS SUBSTANTIALLY as follows: ←

7 I performed an ultrasound test including fetal heartbeat
8 on (insert name of patient) on (insert date AND TIME) at ←
9 (insert name of facility where ultrasound test was
10 performed). At that time, the gestational age was
11 determined to be (INSERT #) weeks and the heart rate was ←
12 (not present or {INSERT #} beats per minute {mark one}). ←
13 The ultrasound screen was positioned so that the patient
14 would be able to view the screen in its entirety while
15 the test was being performed. I informed her of her right
16 to view the ultrasound screen in its entirety while the
17 test was being performed (which she "accepted" or
18 "refused" {mark one}). I provided her with ~~a print~~ TWO ←
19 PRINTS of the ultrasound image that will be used to
20 determine gestational age. I informed her of her right to
21 observe or hear the fetal heartbeat because auscultation
22 was performed (which she "accepted" or "refused" OR "NO ←
23 HEARTBEAT WAS DETECTED" {mark one}). (Print and sign name
24 of person performing ultrasound test and insert date of
25 signature and the time of day the test was performed.)

26 ~~(8)~~ (10) Maintain a copy of the statement under ←
27 paragraph ~~(7)~~ (9) in the patient's medical file at the ←
28 facility where the ~~abortion~~ ULTRASOUND is performed, AND ←
29 PROVIDE A SECOND COPY OF THAT STATEMENT TO THE PATIENT SO
30 THAT SHE MAY PROVIDE IT TO THE PHYSICIAN WHO IS TO PERFORM

1 THE ABORTION OR THE HEALTH CARE PRACTITIONER TO WHOM THAT
2 PHYSICIAN HAS DELEGATED RESPONSIBILITY.

3 ~~(9) Instruct~~ (11) IF THE PATIENT WISHES TO CONTINUE ←
4 WITH THE ABORTION, INSTRUCT the patient to:

5 (i) sign and date her statement UNDER SUBSECTION (B) ←
6 (1); and

7 (ii) take her statement, ONE OF THE PRINTS UNDER ←
8 PARAGRAPH (8) and the signed and dated statement of the
9 individual who performed the ultrasound test to the
10 physician who will perform the abortion OR THE HEALTH ←
11 CARE PRACTITIONER TO WHOM THE PHYSICIAN HAS DELEGATED
12 RESPONSIBILITY.

13 (b) Written statement from patient.--

14 (1) Except as set forth in section 10, the patient must
15 sign a statement which reads SUBSTANTIALLY as follows: ←

16 I was OR WAS NOT (CIRCLE ONE) provided with an ←
17 opportunity to view the ultrasound test in its entirety,
18 while that test was being performed. I was OR WAS NOT ←
19 (CIRCLE ONE) given ~~a print~~ TWO PRINTS of the ultrasound ←
20 image. I was OR WAS NOT (CIRCLE ONE) provided the ←
21 opportunity to observe the fetal heartbeat, IF PRESENT, ←
22 AND RECEIVE ANSWERS TO ANY QUESTIONS I HAD DURING THE
23 ULTRASOUND TEST. (Print and sign name of patient and
24 insert date of signature.)

25 (2) The statement must be in bold print of at least ten-
26 point type and the paper containing such statement must only
27 include material which is necessary to carry out the purpose
28 of this subsection.

29 (3) A copy of the statement, signed and dated by the
30 patient and with the patient's name printed on it, shall be

1 maintained in the patient's medical file at the facility
2 where the abortion is performed.

3 (C) PATIENT OBLIGATIONS.--



4 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE PATIENT
5 MUST PROVIDE TO THE PHYSICIAN WHO IS TO PERFORM THE ABORTION
6 OR THE HEALTH CARE PRACTITIONER TO WHOM THAT PHYSICIAN HAS
7 DELEGATED RESPONSIBILITY:

8 (I) ONE OF THE PRINTS UNDER SUBSECTION (A) (8);

9 (II) THE STATEMENT UNDER SUBSECTION (A) (9) AND (10);

10 AND

11 (III) THE STATEMENT UNDER SUBSECTION (B) (1).

12 (2) PARAGRAPH (1) SHALL NOT APPLY TO THE PATIENT IF:

13 (I) SHE DETERMINES AFTER THE ULTRASOUND TEST TO
14 CONTINUE HER PREGNANCY;

15 (II) HER PREGNANCY IS DEEMED TO BE NONVIABLE; OR

16 (III) THERE IS NO EVIDENCE OF AN INTRAUTERINE
17 PREGNANCY.

18 Section 6. Ultrasound video.

19 (a) Scope.--This section applies if the abortion is not
20 performed within 14 days of the performance of the ultrasound
21 test under section 4.

22 ~~(b) Physician duties.~~



23 ~~(1) The physician who performs the abortion shall, in~~
24 ~~person, do all of the following:~~

25 ~~(i) Inform the patient of the probable gestational~~
26 ~~age of the unborn child at the time the abortion is~~
27 ~~performed.~~

28 ~~(ii) Record the fetal heart rate and note if the~~
29 ~~heart rate is within a normal range for the estimated~~
30 ~~gestational age.~~

1 ~~(iii) Offer the patient an opportunity to view an~~
2 ~~ultrasound video which accurately depicts an unborn child~~
3 ~~at the stage in pregnancy when her abortion is performed.~~

4 ~~(2) The duties under paragraph (1) are discharged by~~
5 ~~providing the patient with:~~

6 ~~(i) an opportunity to view, on site, an appropriate~~
7 ~~ultrasound video approved by the department; or~~

8 ~~(ii) the DVD or viewable electronic medium under~~
9 ~~section 7(a)(5).~~

10 (B) PHYSICIAN DUTIES.--THE PHYSICIAN WHO PERFORMS THE
11 ABORTION SHALL, IN PERSON, DO ALL OF THE FOLLOWING: ←

12 (1) INFORM THE PATIENT OF THE GESTATIONAL AGE OF THE
13 UNBORN CHILD AT THE TIME THE ABORTION IS PERFORMED.

14 (2) RECORD THE FETAL HEART RATE AND NOTE IF THE HEART
15 RATE IS WITHIN A NORMAL RANGE FOR THE GESTATIONAL AGE.

16 (3) OFFER THE PATIENT AN OPPORTUNITY TO VIEW AN
17 ULTRASOUND VIDEO APPROVED BY THE DEPARTMENT WHICH ACCURATELY
18 DEPICTS AN UNBORN CHILD AT THE STAGE IN PREGNANCY WHEN HER
19 ABORTION IS PERFORMED.

20 (c) Written statement.--

21 (1) The patient must sign a statement which reads
22 SUBSTANTIALLY as follows: ←

23 I was OR WAS NOT (CIRCLE ONE) informed of the ~~probable~~ ←
24 gestational age of my unborn child ~~at the time~~ ON THE DAY ←
25 the abortion was performed. I was OR WAS NOT (CIRCLE ONE) ←
26 provided an opportunity to view an ultrasound video
27 approved ~~and provided~~ by the Department of Health. (Print ←
28 and sign name of pregnant woman and insert date of
29 signature.)

30 (2) The physician who performs the abortion shall

1 personally provide the patient with the information required
2 by this section and shall sign a statement which reads
3 SUBSTANTIALLY as follows: ←

4 Prior to performing an abortion on (insert name of
5 pregnant woman) at (insert name of facility), I
6 personally informed her of the ~~probable~~ gestational age ←
7 of her unborn child and I provided her with an
8 opportunity to view an ultrasound video and observe or
9 hear a fetal heartbeat which accurately depicted an
10 unborn child at the same stage of pregnancy when the
11 abortion was performed and she (insert "accepted" or
12 "declined") this opportunity. (Print and sign name of
13 physician and insert date of signature.)

14 (d) Documentation.--A copy of the signed and dated
15 statements required under subsection (c) shall be maintained in
16 the patient's medical file at the facility where the abortion is
17 performed.

18 Section 7. Department.

19 (a) Duties.--The department shall do all of the following to
20 implement this act:

21 (1) ~~Obtain from physicians information necessary to~~ ←
22 ~~prepare the report~~ COLLECT THE REPORTS required under section ←
23 9.

24 (2) ~~Prepare~~ WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ←
25 PARAGRAPH, PREPARE forms for statements and reports required
26 under this act and place the forms on a departmental Internet
27 website.

28 (3) ~~Prepare~~ WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ←
29 PARAGRAPH, PREPARE a geographically indexed list of health
30 care providers, facilities and clinics that perform

1 ultrasounds which provide ultrasound images, ~~including~~ IN ←
2 COMPLIANCE WITH THIS ACT, SEPARATELY LISTING those that offer
3 ultrasound services free of charge. This paragraph requires
4 contact information for each provider, facility or clinic,
5 including telephone numbers and, if available, Internet
6 website addresses.

7 (4) ~~Prepare~~ WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ←
8 PARAGRAPH, PREPARE an ultrasound direction sheet which sets
9 forth the requirements of section 5(a).

10 (5) ~~Approve~~ WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ←
11 PARAGRAPH, APPROVE a DVD or other viewable electronic medium
12 of ultrasound videos which it determines provides accurate
13 and clear ultrasound video images of unborn children and
14 audible fetal heartbeats in weekly stages, or as close to
15 those stages as possible, for patients to view to learn what
16 an unborn child's development will be like at the time of the
17 scheduled abortion.

18 (6) Transmit a notice of approval under paragraph (5) to
19 the Legislative Reference Bureau for publication in the
20 Pennsylvania Bulletin.

21 (7) Submit an annual report to the Secretary of the
22 Senate and the Chief Clerk of the House of Representatives by
23 March 31 based upon the information obtained under this act
24 for the preceding calendar year. The report shall be
25 available for public inspection and copying. The report under
26 this paragraph shall not contain information which discloses
27 the identity of a patient. The report shall include the
28 following information:

29 (i) The gestational ages of unborn ~~children:~~ ←

30 ~~(A) determined by ultrasound image under section~~

1 ~~4; and~~
2 ~~(B) set forth in categories beginning with those~~
3 ~~at eight weeks and proceeding forward in two week~~
4 ~~increments.~~ CHILDREN DETERMINED BY ULTRASOUND, FOR ←
5 EACH ABORTION PERFORMED IN THIS COMMONWEALTH, LISTED
6 BY WEEK OF GESTATIONAL AGE AT THE TIME OF THE
7 ABORTION.

8 (ii) The number of instances when the ultrasound
9 test referred to under section 4 was performed at the
10 facility where the abortion was performed.

11 (iii) The number of instances when exemptions were
12 claimed under section ~~10(b) and (c)~~ 10, listed separately ←
13 by the type of exemption.

14 (b) Powers.--The department may promulgate regulations to
15 implement this act.

16 Section 8. Duties of physicians performing abortion and
17 abortion facilities.

18 (a) Prerequisites.--Except as set forth in section 10, an
19 abortion may not be performed unless all of the following ~~apply~~ ←
20 CONDITIONS ARE MET: ←

21 (1) The physician performing the abortion ~~possesses~~ ←
22 CONFIRMS THAT THE PATIENT'S MEDICAL FILE CONTAINS a copy of: ←

23 (i) the print of the ultrasound image under section
24 ~~5(a)(6)~~ 5(A) (8); ←

25 (ii) the ~~statement under section 5(b); and~~ ←
26 STATEMENTS UNDER SECTION 5(A) (9) AND (B); ←

27 (iii) if applicable, the ~~statement~~ STATEMENTS under ←
28 section 6(c); AND ←

29 (IV) WRITTEN DOCUMENTATION DEMONSTRATING THAT ALL
30 THE REQUIREMENTS OF PARAGRAPH (3) HAVE BEEN MET.

1 (2) The physician performing the abortion, in person,
2 informs the patient of the ~~probable~~ gestational age of the ←
3 unborn child.

4 (3) THE PHYSICIAN PERFORMING THE ABORTION HAS INFORMED ←
5 THE PATIENT OF THE FOLLOWING:

6 (I) WHETHER A HEARTBEAT WAS DETECTED UPON ULTRASOUND
7 EXAMINATION, AND WHETHER THIS IS NORMAL FOR THE
8 DOCUMENTED GESTATIONAL AGE.

9 (II) IF A HEARTBEAT WAS DETECTED, THE NUMBER OF
10 BEATS PER MINUTE THAT WAS RECORDED; AND WHETHER THIS IS
11 NORMAL FOR THE DOCUMENTED GESTATIONAL AGE.

12 (III) IF THE NUMBER OF BEATS PER MINUTE IS NOT
13 NORMAL:

14 (A) THE SIGNIFICANCE OF THIS FACT WITH RESPECT
15 TO THE VIABILITY OF THE PREGNANCY; AND

16 (B) ANY ALTERNATIVES TO ABORTION WHICH ARE
17 WITHIN ACCEPTED MEDICAL STANDARDS OF CARE.

18 (4) At least 24 hours have elapsed since the time when
19 the ultrasound test required under section 4 was performed,
20 as indicated in the statement required under section 5 ~~(b)~~ ←
21 5(A) (9). ←

22 (b) Physician statement.--If an exemption under section 10
23 applies, the physician who performs the abortion shall sign and
24 date the statement set forth below:

25 The exemption set forth in section 10 (insert "(a)", ~~"(b)"~~ or ←
26 ~~"(c)"~~ OR "(B)") applies to the abortion that I performed upon ←
27 (insert name of patient). I made this determination on the
28 basis of the following: (insert ~~medical~~ factors dictating ←
29 application of exemption). (Print and sign physician's name
30 and insert date of signature.)

1 (c) Recordkeeping.--

2 (1) The physician statement required by subsection (b)
3 ~~and~~ OR the print of the ultrasound test UNDER SECTION 4(D) or ←
4 another method of storing the ultrasound image shall be
5 placed in the medical file of the patient at the facility
6 where the abortion is performed.

7 (2) The items under paragraph (1) shall be maintained
8 for the longer of:

9 (i) seven years; or

10 (ii) the extent required by applicable Federal or
11 State law.

12 Section 9. Reports by physicians.

13 (a) Duty of physicians to file.--A physician who performs an
14 abortion OR AN AGENT DESIGNATED BY THAT PHYSICIAN shall file a ←
15 signed report with the department. The report shall not identify
16 the patient by name and shall include the following information
17 AS APPLICABLE: ←

18 (1) The name of the physician who ~~caused~~ ORDERED the ←
19 ultrasound test to be performed, the name of the person who
20 performed the ultrasound test and the facility where the
21 ultrasound test was performed.

22 (2) The date AND TIME the ultrasound test was performed. ←

23 (3) The name of the physician who performed the abortion
24 and the facility where the abortion was performed.

25 (4) The date AND TIME the abortion was performed. ←

26 (5) The gestational age of the unborn child as
27 determined by the ultrasound image required under section 4.

28 (6) Whether the patient declined the opportunity to:

29 (i) view the ultrasound image; or

30 (ii) observe or hear the fetal heartbeat.

1 (7) The basis for the medical judgment of the physician
2 that a medical emergency existed.

3 ~~(8) The basis for the medical judgment of the physician~~ ←
4 FACT that an exemption WAS CLAIMED under section 10(b) ←
5 applies. ←

6 (9) Whether section 6 applied to the patient and whether
7 she declined the opportunity to view the video.

8 (b) Filing deadline.--Reports under this section shall be
9 filed with the department within 15 days after the end of the
10 month.

11 (c) Confidentiality.--Reports under this section ~~may~~ SHALL ←
12 not contain information which discloses the identity of a
13 patient.

14 Section 10. Exemptions.

15 (a) Medical emergencies.--Sections 4, 5 ~~and 8~~, 6 AND 8(A) ←
16 shall not apply if a medical emergency exists.

17 ~~(b) Gestational age. Sections 4, 5 and 8 shall not apply~~ ←
18 ~~if, in the physician's reasonable medical opinion, the probable~~
19 ~~gestational age of the unborn child is less than eight weeks.~~

20 ~~(c) Rape or incest.--Sections 4, 5 and 8, 6 AND 8(A) shall~~ ←
21 not apply if the patient's pregnancy is the result of rape or
22 incest.

23 Section 11. Administrative sanctions.

24 A physician who knowingly violates this act shall be deemed
25 to have engaged in unprofessional conduct and shall be subject
26 to appropriate disciplinary action under:

27 (1) the act of October 5, 1978 (P.L.1109, No.261), known
28 as the Osteopathic Medical Practice Act; or

29 (2) the act of December 20, 1985 (P.L.457, No.112),
30 known as the Medical Practice Act of 1985.

1 Section 12. Criminal penalties.

2 (a) Specific violations.--

3 (1) A physician who knowingly violates section 4, 5, 6
4 or 8 and performs an abortion commits a misdemeanor of the
5 third degree.

6 (2) An individual who knowingly violates section 4
7 commits a misdemeanor of the third degree.

8 (3) An individual other than a patient who executes a
9 written statement required by this act with knowledge that
10 the statement is false commits a misdemeanor of the third
11 degree.

12 (b) Disclosure of patient's identity.--

13 (1) Except as set forth in paragraph (2), all of the
14 following apply:

15 (i) A health care provider that learns of the
16 identity of a patient may not disclose the identity of
17 the patient.

18 (ii) A public employee or official that learns of
19 the identity of a patient may not disclose the identity
20 of the patient.

21 (2) Paragraph (1) does not apply if disclosure:

22 (i) is appropriate to carry out the purposes of this
23 act; or

24 (ii) is made with the consent of the patient.

25 (3) A person that knowingly violates this subsection
26 commits a misdemeanor of the second degree.

27 Section 13. Civil remedies.

28 ~~(a) Equity.~~

29 ~~(1) This subsection applies to any of the following that~~
30 ~~knowingly performs an abortion in violation of this act:~~



1 ~~(i) A physician.~~
2 ~~(ii) A facility at which an abortion is performed.~~
3 ~~(2) Any of the following may seek an injunction against~~
4 ~~a person specified in paragraph (1):~~

5 ~~(i) The woman who was a patient.~~
6 ~~(ii) The district attorney in the county where an~~
7 ~~abortion was performed.~~
8 ~~(iii) The Attorney General.~~

9 ~~(3) An injunction under this section shall prevent the~~
10 ~~person from performing further abortions.~~

11 ~~(b) Law. If a physician or health care provider performs an~~
12 ~~abortion in violation of this act, the physician or health care~~
13 ~~provider shall be liable for actual damages as follows:~~

14 ~~(1) Except as set forth in paragraph (2), to the~~
15 ~~patient.~~

16 ~~(2) To the parent or legal guardian of a patient who, at~~
17 ~~the time of the abortion:~~

18 ~~(i) is under 18 years of age and not emancipated; or~~
19 ~~(ii) is incapacitated under 20 Pa.C.S. § 5512.1~~
20 ~~(relating to determination of incapacity and appointment~~
21 ~~of guardian).~~

22 ~~(c) Attorney fees. The court shall award attorney fees as~~
23 ~~follows:~~

24 ~~(1) To a successful petitioner under subsection (a) (2).~~

25 ~~(2) To a successful plaintiff under subsection (b).~~

26 (A) DAMAGES.--A HEALTH CARE PRACTITIONER WHO KNOWINGLY
27 PERFORMS AN ABORTION IN VIOLATION OF THIS ACT SHALL BE LIABLE TO
28 THE PATIENT FOR:

29 (1) DAMAGES CAUSED BY THE VIOLATION; AND

30 (2) PUNITIVE DAMAGES IN THE AMOUNT OF \$5,000.



1 (B) ATTORNEY FEES.--A PREVAILING PARTY UNDER SUBSECTION (A)
2 SHALL BE AWARDED ATTORNEY FEES.

3 (C) CUMULATIVE NATURE.--CIVIL LIABILITY UNDER THIS SECTION
4 IS IN ADDITION TO:

5 (1) ADMINISTRATIVE SANCTIONS UNDER SECTION 11; AND

6 (2) CRIMINAL PENALTIES UNDER SECTION 12.

7 Section 14. Construction.

8 Nothing in this act shall be deemed to do any of the
9 following:

10 (1) Eliminate the application of the 24-hour waiting
11 period under 18 Pa.C.S. § 3205 (relating to informed
12 consent).

13 (2) Limit or repeal any provision of 18 Pa.C.S. Ch. 32
14 (relating to abortion).

15 Section 48. Severability.

16 The provisions of this act are severable. If any provision of
17 this act or its application to any person or circumstance is
18 held invalid, the invalidity shall not affect other provisions
19 or applications of this act which can be given effect without
20 the invalid provision or application.

21 Section 49. Applicability.

22 The requirements of this act shall not be deemed ~~inoperative~~ ←
23 OPERATIVE prior to the preparation of forms by the department ←
24 under section 7(a)(2).

25 Section 50. Effective date.

26 This act shall take effect as follows:

27 (1) The following provisions shall take effect
28 immediately:

29 (i) Section 7.

30 (ii) Section 49.

1 (iii) This section.

2 (2) Section 6 shall take effect 30 days after the
3 publication of the notice under section 7(a)(6).

4 (3) The remainder of this act shall take effect in 90
5 days.