

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 732 Session of  
2011

INTRODUCED BY VANCE, SCARNATI, PILEGGI, BAKER, ERICKSON,  
FONTANA, KASUNIC, MENSCH, WARD, ALLOWAY, BROWNE, BRUBAKER,  
SMUCKER, STACK, TOMLINSON, D. WHITE, WOZNIAK, YUDICHAK,  
EARLL, EICHELBERGER, FOLMER, GORDNER, ORIE, PIPPY, RAFFERTY  
AND ROBBINS, MARCH 2, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
DECEMBER 12, 2011

AN ACT

1 ~~Regulating certain facilities which perform abortions; imposing~~ ←  
2 ~~powers and duties on the Department of Health, the~~  
3 ~~Legislative Budget and Finance Committee and the Legislative~~  
4 ~~Reference Bureau; and imposing penalties.~~

5 AMENDING THE ACT OF JULY 19, 1979 (P.L.130, NO.48), ENTITLED "AN ←  
6 ACT RELATING TO HEALTH CARE; PRESCRIBING THE POWERS AND  
7 DUTIES OF THE DEPARTMENT OF HEALTH; ESTABLISHING AND  
8 PROVIDING THE POWERS AND DUTIES OF THE STATE HEALTH  
9 COORDINATING COUNCIL, HEALTH SYSTEMS AGENCIES AND HEALTH CARE  
10 POLICY BOARD IN THE DEPARTMENT OF HEALTH, AND STATE HEALTH  
11 FACILITY HEARING BOARD IN THE DEPARTMENT OF JUSTICE;  
12 PROVIDING FOR CERTIFICATION OF NEED OF HEALTH CARE PROVIDERS  
13 AND PRESCRIBING PENALTIES," FURTHER PROVIDING FOR  
14 DEFINITIONS, FOR LICENSURE, FOR APPLICATION FOR LICENSE AND, ←  
15 FOR ISSUANCE OF LICENSE; AND MAKING AN INCONSISTENT REPEAL ←  
16 AND FOR INSPECTIONS. ←

17 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS: ←

18 (1) A PHILADELPHIA COUNTY INVESTIGATING GRAND JURY  
19 REPORT HAS REVEALED SYSTEMIC DEFICIENCIES IN THE MANNER IN  
20 WHICH THE COMMONWEALTH HAS REGULATED ABORTION FACILITIES  
21 OPERATING IN THIS COMMONWEALTH.

22 (2) THESE SYSTEMIC DEFICIENCIES HAVE LED TO HORRIFIC

1 INSTANCES OF BODILY INJURY AND DEATH.

2 (3) SURGICAL ABORTIONS ARE AT A MINIMUM AN OUTPATIENT  
3 SURGICAL PROCEDURE PERFORMED IN THIS COMMONWEALTH.

4 (4) THE GENERAL PUBLIC HAS A SUBSTANTIAL INTEREST IN THE  
5 COMPREHENSIVE REGULATION OF ABORTION FACILITIES OPERATING IN  
6 THIS COMMONWEALTH.

7 (5) COMPREHENSIVE REGULATION OF ABORTION FACILITIES  
8 REASONABLY SERVES THE COMMONWEALTH'S SUBSTANTIAL INTERESTS IN  
9 PROTECTING THE HEALTH, SAFETY AND WELFARE OF THE GENERAL  
10 PUBLIC.

11 (6) REGULATION OF ABORTION FACILITIES THAT PERFORM  
12 OUTPATIENT SURGICAL PROCEDURES AS AMBULATORY SURGICAL  
13 FACILITIES IS NECESSARY TO CURE THE SYSTEMIC DEFICIENCIES  
14 PRESENT IN THE CURRENT REGULATORY SCHEME.

15 (7) PROPER LICENSING AND A SYSTEM OF RANDOM  
16 ADMINISTRATIVE INSPECTIONS OF ABORTION FACILITIES OPERATING  
17 IN THIS COMMONWEALTH ARE ALSO A NECESSARY PART OF ANY  
18 COMPREHENSIVE REGULATORY SCHEME.

19 (8) UNANNOUNCED INSPECTIONS ARE NECESSARY TO FURTHER THE  
20 REGULATION OF ABORTION FACILITIES DUE TO THE CONTROVERSIAL  
21 NATURE OF THE PROCEDURES PERFORMED IN AN ABORTION FACILITY  
22 AND UNDERSTANDABLE CONCERNS BY THE PATIENTS THAT THEIR  
23 MEDICAL HISTORY WILL NOT REMAIN PRIVATE IF A REPORT OF A  
24 VIOLATION IS MADE.

25 The General Assembly of the Commonwealth of Pennsylvania  
26 hereby enacts as follows:

27 ~~Section 1. Short title.~~

28 ~~This act shall be known and may be cited as the Department of~~  
29 ~~Health Abortion Facility Oversight Act.~~

30 ~~Section 1.1. Legislative findings and declaration of policy.~~



1 ~~(a) Legislative findings. It is hereby determined and~~  
2 ~~declared as a matter of legislative finding that:~~

3 ~~(1) A Philadelphia County investigating grand jury~~  
4 ~~report has revealed systemic deficiencies in the manner in~~  
5 ~~which the Commonwealth has regulated abortion facilities~~  
6 ~~operating in this Commonwealth.~~

7 ~~(2) These systemic deficiencies have led to horrific~~  
8 ~~instances of bodily injury and death.~~

9 ~~(3) The general public has a substantial interest in the~~  
10 ~~comprehensive regulation of abortion facilities operating in~~  
11 ~~this Commonwealth.~~

12 ~~(4) Comprehensive regulation of abortion facilities~~  
13 ~~reasonably serves the Commonwealth's substantial interests in~~  
14 ~~protecting the health, safety and welfare of the general~~  
15 ~~public.~~

16 ~~(5) Regulation of abortion facilities that perform~~  
17 ~~outpatient surgical procedures as ambulatory surgical~~  
18 ~~facilities is necessary to cure the systemic deficiencies~~  
19 ~~present in the current regulatory scheme.~~

20 ~~(6) Use of outpatient surgical procedures in abortion~~  
21 ~~facilities is more likely to occur after nine weeks~~  
22 ~~gestational age.~~

23 ~~(7) Proper licensing and a system of random~~  
24 ~~administrative inspections of abortion facilities operating~~  
25 ~~in this Commonwealth are also a necessary part of any~~  
26 ~~comprehensive regulatory scheme.~~

27 ~~(b) Declaration of policy. It is hereby declared to be the~~  
28 ~~intention of the General Assembly to protect the health, safety~~  
29 ~~and welfare of the general public through the comprehensive~~  
30 ~~regulation of abortion facilities operating in this~~

1 Commonwealth.

2 Section 2. Definitions.

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

6 "Abortion." As defined in 18 Pa.C.S. § 3203 (relating to  
7 definitions).

8 "Abortion facility." A facility:

9 (1) which is not subject to licensure under act of July  
10 19, 1979 (P.L.130, No.48), known as the Health Care  
11 Facilities Act; and

12 (2) in which abortions are performed on an elective  
13 basis.

14 "Complainant." An individual who contacts the department for  
15 the purpose of making a complaint.

16 "Complaint." A communication received by the department,  
17 which describes conduct in violation of this act or any other  
18 statute or regulations pertaining to abortions or abortion  
19 facilities.

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

21 "Inspection." An examination by the department, including  
22 interviews with the office staff, clients and individuals  
23 providing abortions or assisting in providing abortions, and a  
24 review of documents pertinent to initial and continued  
25 compliance for the purpose of operating an abortion facility.

26 "Serious event." As defined in section 302 of the act of  
27 March 20, 2002 (P.L.154, No.13), known as the Medical Care  
28 Availability and Reduction of Error (Meare) Act.

29 Section 3. Licensure.

30 (a) License required. An abortion facility must be licensed

1 ~~by the department.~~

2 ~~(b) Procedure.~~

3 ~~(1) An abortion facility must submit an application for~~  
4 ~~licensure to the department on a form prescribed by the~~  
5 ~~department.~~

6 ~~(2) Upon receipt of an application under paragraph (1),~~  
7 ~~the department shall inspect the abortion facility to~~  
8 ~~determine the ability to comply with this act.~~

9 ~~(c) License.~~

10 ~~(1) If the department determines that the abortion~~  
11 ~~facility is able to comply with this act, the department~~  
12 ~~shall issue a license indicating all of the following:~~

13 ~~(i) Name.~~

14 ~~(ii) Compliance with statutory and regulatory~~  
15 ~~requirements.~~

16 ~~(iii) Term. The term shall be for a period of not~~  
17 ~~more than one year.~~

18 ~~(iv) The date the inspection took place.~~

19 ~~(2) A license is nontransferable.~~

20 ~~(3) The abortion facility shall prominently display the~~  
21 ~~license where it is visible to patients.~~

22 ~~(d) Renewal. Before expiration of the term under subsection~~  
23 ~~(c) (1) (iii), an abortion facility must apply for renewal in~~  
24 ~~accordance with subsection (c).~~

25 ~~Section 4. Inspections.~~

26 ~~(a) Authority.~~

27 ~~(1) An inspector of the department may, with~~  
28 ~~identification, enter and inspect an abortion facility which:~~

29 ~~(i) holds a license; or~~

30 ~~(ii) is seeking licensure.~~

1           ~~(2) In an inspection, the department shall have free and~~  
2 ~~full access to all of the following:~~

3           ~~(i) Premises and records of the abortion facility.~~

4           ~~(ii) Individuals employed by or under contract with~~  
5 ~~the abortion facility. This subparagraph includes the~~  
6 ~~opportunity to interview the individuals.~~

7 ~~(b) Timing.~~

8           ~~(1) An initial inspection shall be conducted under~~  
9 ~~section 3(b)(2).~~

10           ~~(2) An inspection shall be conducted for license renewal~~  
11 ~~under section 3(d).~~

12           ~~(3) The department shall annually conduct at least one~~  
13 ~~unannounced inspection of each abortion facility. Such~~  
14 ~~inspection may satisfy the requirements of paragraph (2).~~

15           ~~(4) The department may conduct other inspections,~~  
16 ~~announced or unannounced, for the purpose of:~~

17           ~~(i) ensuring compliance; or~~

18           ~~(ii) investigating a complaint.~~

19 ~~(c) Reports. Inspection reports and plans of correction~~  
20 ~~under section 5(c)(3) shall be posted on the department's~~  
21 ~~publicly accessible Internet website and shall be searchable by~~  
22 ~~the public.~~

23 ~~(d) Privacy. The department shall conduct its inspection in~~  
24 ~~such a way so as not to delay, disrupt or interfere with patient~~  
25 ~~care or jeopardize patient safety and privacy.~~

26 ~~Section 5. Violations.~~

27 ~~(a) Illegal actions. The following are violations of this~~  
28 ~~act:~~

29           ~~(1) Violation of a regulation promulgated under this act~~  
30 ~~or any other statute or regulation pertaining to abortions or~~

1 ~~abortion facilities or, in the case of abortion facilities~~  
2 ~~performing abortions after nine weeks gestational age, the~~  
3 ~~regulations applicable to ambulatory surgical facilities~~  
4 ~~promulgated under the act of July 19, 1979 (P.L.130, No.48),~~  
5 ~~known as the Health Care Facilities Act.~~

6 ~~(2) Transferring a license.~~

7 ~~(3) Obtaining or attempting to obtain a license in~~  
8 ~~violation of this act. This paragraph includes fraud or~~  
9 ~~deceit in the application process.~~

10 ~~(4) Gross incompetence, negligence or misconduct in~~  
11 ~~operation of the abortion facility.~~

12 ~~(5) Mistreating or abusing patients cared for in the~~  
13 ~~abortion facility.~~

14 ~~(6) Failure to permit inspectors to enter the facility~~  
15 ~~or to provide access to requested records.~~

16 ~~(b) Notice. If the department discovers a violation under~~  
17 ~~subsection (a), the department shall give written notice to the~~  
18 ~~abortion facility specifying the violation.~~

19 ~~(c) Effect.—~~

20 ~~(1) The department may deny licensure or renewal until~~  
21 ~~correction of the violation under subsection (a).~~

22 ~~(2) If the department determines that a violation under~~  
23 ~~subsection (a) immediately compromises the health and safety~~  
24 ~~of the patient, the department shall immediately revoke the~~  
25 ~~license.~~

26 ~~(3) Except as set forth in paragraph (1) or (2), within~~  
27 ~~ten days of notice under subsection (b), the abortion~~  
28 ~~facility shall prepare a plan of correction.~~

29 ~~(4) The department may assess an administrative penalty~~  
30 ~~against a license holder. This paragraph is subject to 2~~

1 ~~Pa.C.S. Chs. 5. Subch. A (relating to practice and procedure~~  
2 ~~of Commonwealth agencies) and 7 Subch. A (relating to~~  
3 ~~judicial review of Commonwealth agency action).~~

4 ~~Section 6. Operation without a license.~~

5 ~~(a) Prohibition. An abortion facility may not operate~~  
6 ~~without a license. Each day of operation constitutes a separate~~  
7 ~~offense.~~

8 ~~(b) Penalty. A person that violates subsection (a) commits~~  
9 ~~a misdemeanor of the third degree and shall, upon conviction, be~~  
10 ~~sentenced to pay a fine of up to \$2,000, or to imprisonment for~~  
11 ~~not more than six months, or both, for the first violation. On~~  
12 ~~the second and each subsequent conviction, he or she shall be~~  
13 ~~sentenced to pay a fine of not less than \$5,000 nor more than~~  
14 ~~\$20,000, or to imprisonment for not less than six months nor~~  
15 ~~more than one year, or both.~~

16 ~~Section 7. Complaints.~~

17 ~~(a) Procedure. The department shall promulgate regulations~~  
18 ~~for a formal complaint process for a person to report a~~  
19 ~~violation of this act or any other statute or regulation~~  
20 ~~pertaining to abortions or abortion facilities. The process~~  
21 ~~shall include:~~

22 ~~(1) A toll free telephone number for lodging verbal~~  
23 ~~complaints.~~

24 ~~(2) A form, easily accessible on the department's~~  
25 ~~Internet website, to allow for electronic submission of~~  
26 ~~written complaints.~~

27 ~~(3) An intake system and protocols for dealing with~~  
28 ~~individuals making complaints directly to department~~  
29 ~~employees or through the postal system.~~

30 ~~(4) A complaint tracking system.~~

1 ~~(b) Treatment. A complainant shall receive all of the~~  
2 ~~following:~~

3 ~~(1) Notification of the option to remain anonymous.~~

4 ~~(2) Written acknowledgment regarding the receipt of the~~  
5 ~~complaint.~~

6 ~~(3) Written notification of the final outcome of~~  
7 ~~investigation of the complaint.~~

8 ~~Section 8. Reports.~~

9 ~~(a) Serious event reports.~~

10 ~~(1) Notwithstanding any other provision to the contrary,~~  
11 ~~all abortion facilities as defined in this act shall report~~  
12 ~~the occurrence of a serious event to the department and the~~  
13 ~~Patient Safety Authority within 24 hours of the abortion~~  
14 ~~facility's confirmation of the serious event.~~

15 ~~(2) Within 72 hours of a report of a serious event, the~~  
16 ~~department shall initiate an inspection.~~

17 ~~(3) Failure to report a serious event may be the basis~~  
18 ~~for the revocation of licensure under this act. In addition~~  
19 ~~to any penalty which may be imposed under 18 Pa.C.S. Ch. 32~~  
20 ~~(relating to abortion), an abortion facility which fails to~~  
21 ~~report a serious event in accordance with this act may be~~  
22 ~~subject to an administrative penalty of \$1,000 per day~~  
23 ~~imposed by the department.~~

24 ~~(4) Reporting under paragraph (1) shall be in accordance~~  
25 ~~with section 313 of the act of March 20, 2002 (P.L.154,~~  
26 ~~No.13), known as the Medical Care Availability and Reduction~~  
27 ~~of Error (Meare) Act.~~

28 ~~(b) Communication with Department of State. The department~~  
29 ~~shall establish regular and formal mechanisms for making reports~~  
30 ~~to the Department of State. Complaints pertaining to any~~

1 ~~licensed professional under the jurisdiction of the Bureau of~~  
2 ~~Professional and Occupational Affairs shall be reported as soon~~  
3 ~~as possible to the appropriate licensing board but no more than~~  
4 ~~72 hours after receipt.~~

5 ~~Section 9. Confidentiality.~~

6 ~~The following shall apply:~~

7 ~~(1) Information regarding complainant and patient~~  
8 ~~identity received by the department shall be kept~~  
9 ~~confidential and shall not be subject to the act of February~~  
10 ~~14, 2008 (P.L.6, No.3), known as the Right to Know Law.~~

11 ~~(2) The department shall at all times respect the~~  
12 ~~privacy of patients and patient records which shall be~~  
13 ~~subject to the Health Insurance Portability and~~  
14 ~~Accountability Act (HIPAA) of 1996 (Public Law 104 191, 110~~  
15 ~~Stat. 1936).~~

16 ~~Section 10. Regulations.~~

17 ~~The department shall promulgate regulations to implement this~~  
18 ~~act. Existing regulations of the department applicable to~~  
19 ~~abortion facilities not clearly inconsistent with the provisions~~  
20 ~~of this act shall remain in effect until amended by the~~  
21 ~~department under this section.~~

22 ~~Section 11. Existing abortion facilities.~~

23 ~~The department shall begin a process to ensure all of the~~  
24 ~~following:~~

25 ~~(1) Abortion facilities in existence on the effective~~  
26 ~~date of this section are able to receive a license if~~  
27 ~~warranted. When a licensure process is in effect, the~~  
28 ~~department shall transmit notice of this fact to the~~  
29 ~~Legislative Reference Bureau for publication in the~~  
30 ~~Pennsylvania Bulletin.~~

1           ~~(2) Abortion facilities are in compliance with other~~  
2           ~~statutes administered by the department pertaining to~~  
3           ~~abortion facilities.~~

4   Section 12. ~~Setting of fees and disposition of fees.~~

5           ~~(a) Setting of fees. All fees may be fixed by the~~  
6           ~~department by regulation and shall be subject to the act of June~~  
7           ~~25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.~~  
8           ~~If the revenues raised by the fees imposed under this act are~~  
9           ~~not sufficient to meet expenditures over a two year period, the~~  
10           ~~department may increase those fees by regulation so that the~~  
11           ~~projected revenues will meet or exceed projected expenditures.~~

12           ~~(b) Licensure Fee Account. The Licensure Fee Account is~~  
13           ~~hereby established as a restricted account in the General Fund.~~  
14           ~~All fees shall be deposited in the Licensure Fee Account. Moneys~~  
15           ~~in the account are hereby appropriated to the department for use~~  
16           ~~in the performance of its duties under this act.~~

17   Section 13. ~~Study.~~

18           ~~The Legislative Budget and Finance Committee shall study the~~  
19           ~~fiscal impact of applying 28 Pa. Code Pt. IV Subpt. F (relating~~  
20           ~~to ambulatory surgical facilities) to existing abortion~~  
21           ~~facilities that currently perform abortions under 28 Pa. Code~~  
22           ~~Pt. IV Subpt. F. The department shall assist the committee in~~  
23           ~~obtaining necessary information for the study. Within 90 days of~~  
24           ~~the effective date of this section, the committee shall report~~  
25           ~~the results of the study to the President pro tempore of the~~  
26           ~~Senate, the Minority Leader of the Senate, the Speaker of the~~  
27           ~~House of Representatives and the Minority Leader of the House of~~  
28           ~~Representatives.~~

29   Section 14. ~~Construction.~~

30           ~~Nothing in this act shall be construed to limit the~~

1 ~~provisions of 18 Pa.C.S. Ch. 32 (relating to abortion) or limit~~  
2 ~~any regulation promulgated under 18 Pa.C.S. Ch. 32.~~  
3 ~~Section 30. Effective date.~~

4 ~~This act shall take effect as follows:~~

5 ~~(1) The following provisions shall take effect~~  
6 ~~immediately:~~

7 ~~(i) Section 2.~~

8 ~~(ii) Section 10.~~

9 ~~(iii) Section 11.~~

10 ~~(iv) Section 13.~~

11 ~~(v) This section.~~

12 ~~(2) Section 6 shall take effect 60 days after~~  
13 ~~publication of the notice under section 11(1).~~

14 ~~(3) Section 5(a)(1) shall take effect in 180 days.~~

15 ~~(4) The remainder of this act shall take effect in 60~~  
16 ~~days.~~

17 ~~SECTION 1. THE DEFINITION OF "HEALTH CARE FACILITY" IN~~ ←  
18 ~~SECTION 802.1 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48),~~  
19 ~~KNOWN AS THE HEALTH CARE FACILITIES ACT, AMENDED JULY 7, 2006-~~  
20 ~~(P.L.334, NO.69), IS AMENDED AND THE SECTION IS AMENDED BY~~  
21 ~~ADDING A DEFINITION TO READ:~~

22 SECTION 1. SECTION 802.1 OF THE ACT OF JULY 19, 1979 ←  
23 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT, IS  
24 AMENDED BY ADDING A DEFINITION TO READ:

25 SECTION 802.1. DEFINITIONS.

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
27 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE  
28 MEANINGS GIVEN THEM IN THIS SECTION:

29 "ABORTION FACILITY." ANY PUBLIC OR PRIVATE HOSPITAL, NOT ←  
30 SUBJECT TO INSPECTION AND REGULATION UNDER THIS ACT, AND ANY

1 CLINIC, CENTER, MEDICAL SCHOOL, MEDICAL TRAINING INSTITUTION,  
2 PHYSICIAN'S OFFICE, INFIRMARY OR OTHER INSTITUTION, WHICH ←  
3 PROVIDES SURGICAL SERVICES MEANT TO TERMINATE THE CLINICALLY  
4 DIAGNOSABLE PREGNANCY OF A WOMAN WITH KNOWLEDGE THAT THE ←  
5 TERMINATION BY THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD,  
6 CAUSE THE DEATH OF THE UNBORN CHILD.

7 \* \* \*

8 ~~"HEALTH CARE FACILITY." FOR PURPOSES OF CHAPTER 8, A HEALTH~~ ←  
9 ~~CARE FACILITY INCLUDES, BUT IS NOT LIMITED TO, A GENERAL,~~  
10 ~~CHRONIC DISEASE OR OTHER TYPE OF HOSPITAL, A HOME HEALTH CARE~~  
11 ~~AGENCY, A HOME CARE AGENCY, A HOSPICE, A LONG TERM CARE NURSING~~  
12 ~~FACILITY, CANCER TREATMENT CENTERS USING RADIATION THERAPY ON AN~~  
13 ~~AMBULATORY BASIS, AN AMBULATORY SURGICAL FACILITY, AN ABORTION~~  
14 ~~FACILITY, A BIRTH CENTER REGARDLESS OF WHETHER SUCH HEALTH CARE~~  
15 ~~FACILITY IS OPERATED FOR PROFIT, NONPROFIT OR BY AN AGENCY OF~~  
16 ~~THE COMMONWEALTH OR LOCAL GOVERNMENT. THE DEPARTMENT SHALL HAVE~~  
17 ~~THE AUTHORITY TO LICENSE OTHER HEALTH CARE FACILITIES AS MAY BE~~  
18 ~~NECESSARY DUE TO EMERGENCE OF NEW MODES OF HEALTH CARE. WHEN THE~~  
19 ~~DEPARTMENT SO FINDS, IT SHALL PUBLISH ITS INTENTION TO LICENSE A~~  
20 ~~PARTICULAR TYPE OF HEALTH CARE FACILITY IN THE PENNSYLVANIA~~  
21 ~~BULLETIN IN ACCORDANCE WITH THE ACT OF JUNE 25, 1982 (P.L.633,~~  
22 ~~NO.181), KNOWN AS THE "REGULATORY REVIEW ACT." THE TERM HEALTH~~  
23 ~~CARE FACILITY SHALL NOT INCLUDE AN OFFICE USED PRIMARILY FOR THE~~  
24 ~~PRIVATE PRACTICE OF A HEALTH CARE PRACTITIONER, NOR A PROGRAM~~  
25 ~~WHICH RENDERS TREATMENT OR CARE FOR DRUG OR ALCOHOL ABUSE OR~~  
26 ~~DEPENDENCE UNLESS LOCATED WITHIN A HEALTH FACILITY, NOR A~~  
27 ~~FACILITY PROVIDING TREATMENT SOLELY ON THE BASIS OF PRAYER OR~~  
28 ~~SPIRITUAL MEANS. THE TERM HEALTH CARE FACILITY SHALL NOT APPLY~~  
29 ~~TO A FACILITY WHICH IS CONDUCTED BY A RELIGIOUS ORGANIZATION FOR~~  
30 ~~THE PURPOSE OF PROVIDING HEALTH CARE SERVICES EXCLUSIVELY TO~~

1 ~~CLERGYMEN OR OTHER PERSONS IN A RELIGIOUS PROFESSION WHO ARE~~  
2 ~~MEMBERS OF A RELIGIOUS DENOMINATION.~~

3 \* \* \*

4 SECTION 2. SECTION 806 OF THE ACT IS AMENDED BY ADDING A ←  
5 SUBSECTION SUBSECTIONS A SUBSECTION TO READ: ←

6 SECTION 806. LICENSURE.

7 \* \* \*

8 ~~(H) ABORTION FACILITIES. THE DEPARTMENT SHALL APPLY THE~~ ←  
9 ~~SAME FIRE AND SAFETY STANDARDS; PERSONNEL AND EQUIPMENT~~  
10 ~~REQUIREMENTS; AND QUALITY ASSURANCE PROCEDURES TO ABORTION~~  
11 ~~FACILITIES THAT ARE APPLIED TO AMBULATORY SURGICAL FACILITIES.~~

12 (H) ABORTION FACILITIES.-- ←

13 (1) THE DEPARTMENT SHALL APPLY THE SAME REGULATIONS  
14 PROMULGATED UNDER SUBSECTION (F) TO ABORTION FACILITIES THAT  
15 ARE APPLIED TO AMBULATORY SURGICAL FACILITIES. THESE  
16 REGULATIONS INCLUDE CLASSIFICATION OF THE FACILITIES IN THE  
17 SAME MANNER AS AMBULATORY SURGICAL FACILITIES.

18 (2) THE DEPARTMENT SHALL APPLY TO ABORTION FACILITIES  
19 ANY OTHER PROVISION OF THIS CHAPTER GOVERNING HEALTH CARE  
20 FACILITIES INSOFAR AS THEY ARE APPLICABLE TO AMBULATORY  
21 SURGICAL FACILITIES.

22 (3) FOR THE PURPOSE OF APPLYING THE RULES APPLICABLE TO  
23 AMBULATORY SURGICAL FACILITIES, ALL OF THE FOLLOWING APPLY:

24 (I) THE DEPARTMENT SHALL ALLOW THE ABORTION FACILITY  
25 TO REQUEST AN EXCEPTION.

26 (II) THE REQUEST MUST IDENTIFY WITH SPECIFICITY THE  
27 REASONS FOR WHICH THE EXCEPTION IS SOUGHT.

28 (III) IN CONSIDERING A PETITION UNDER THIS  
29 PARAGRAPH, THE DEPARTMENT SHALL APPLY THE SAME PROCEDURES  
30 AND CRITERIA THAT ARE APPLICABLE TO OTHER HEALTH CARE



1	HOME CARE AGENCY OR HOME CARE	
2	REGISTRY	100.00
3	AMBULATORY SURGICAL FACILITY	250.00
4	<u>ABORTION FACILITY</u>	<u>250.00</u>
5	BIRTH CENTER	70.00
6	LONG-TERM CARE NURSING FACILITY	250.00
7	PLUS PER EACH LONG-TERM CARE	
8	BED IN EXCESS OF 75 BEDS	2.00
9	HOSPITAL	
10	EVERY TWO YEARS	500.00
11	PLUS PER EACH INPATIENT BED	
12	EVERY TWO YEARS	4.00
13	OTHER HEALTH CARE FACILITY	100.00
14	(2) PROVISIONAL LICENSE ALL FACILITIES:	
15	PROVISIONAL I	\$400.00
16	PLUS PER EACH INPATIENT BED	4.00
17	PROVISIONAL II	600.00
18	PLUS PER EACH INPATIENT BED	6.00
19	PROVISIONAL III	800.00
20	PLUS PER EACH INPATIENT BED	8.00
21	PROVISIONAL IV	1,000.00
22	PLUS PER EACH INPATIENT BED	10.00

23 (B.1) LICENSURE FEE ACCOUNT.--

24 (1) THE LICENSURE FEE ACCOUNT IS ESTABLISHED AS A  
25 RESTRICTED ACCOUNT IN THE GENERAL FUND.

26 (2) FEES UNDER SUBSECTION (B) (1) PERTAINING TO ABORTION  
27 FACILITIES SHALL BE DEPOSITED IN THE ACCOUNT.

28 (3) MONEY IN THE ACCOUNT IS APPROPRIATED ON A CONTINUING  
29 BASIS TO THE DEPARTMENT FOR USE IN THE PERFORMANCE OF ITS  
30 DUTIES. THIS APPROPRIATION SHALL NOT LAPSE AT THE END OF ANY



1 FISCAL YEAR.

2 \* \* \*

3 SECTION 3.1. SECTION 808(A) OF THE ACT, AMENDED DECEMBER 18,  
4 1992 (P.L.1602, NO.179), IS AMENDED TO READ:

5 SECTION 808. ISSUANCE OF LICENSE.

6 (A) STANDARDS.--THE DEPARTMENT SHALL ISSUE A LICENSE TO A  
7 HEALTH CARE PROVIDER WHEN IT IS SATISFIED THAT THE FOLLOWING  
8 STANDARDS HAVE BEEN MET:

9 (1) THAT THE HEALTH CARE PROVIDER IS A RESPONSIBLE  
10 PERSON;

11 (2) THAT THE PLACE TO BE USED AS A HEALTH CARE FACILITY  
12 IS ADEQUATELY CONSTRUCTED, EQUIPPED, MAINTAINED AND OPERATED  
13 TO SAFELY AND EFFICIENTLY RENDER THE SERVICES OFFERED;

14 (3) THAT THE HEALTH CARE FACILITY PROVIDES SAFE AND  
15 EFFICIENT SERVICES WHICH ARE ADEQUATE FOR THE CARE, TREATMENT  
16 AND COMFORT OF THE PATIENTS OR RESIDENTS OF SUCH FACILITY;

17 (4) THAT THERE IS SUBSTANTIAL COMPLIANCE WITH THE RULES  
18 AND REGULATIONS ADOPTED BY THE DEPARTMENT PURSUANT TO THIS  
19 ACT; [AND]

20 (5) THAT A CERTIFICATE OF NEED HAS BEEN ISSUED IF ONE IS  
21 NECESSARY[.]; AND

22 (6) THAT, IN THE CASE OF ABORTION FACILITIES, SUCH  
23 FACILITY IS IN COMPLIANCE WITH THE REQUIREMENTS OF 18 PA.C.S.  
24 CH. 32 (RELATING TO ABORTION) AND SUCH REGULATIONS  
25 PROMULGATED THEREUNDER.

26 \* \* \*

27 ~~SECTION 4. THE DEFINITION OF "ABORTION FACILITY" IN SECTION~~ ←  
28 ~~302 OF THE ACT OF MARCH 20, 2002 (P.L.154, NO.13), KNOWN AS THE~~  
29 ~~MEDICAL CARE AVAILABILITY AND REDUCTION OF ERROR (MCARE) ACT, IS~~  
30 ~~REPEALED TO THE EXTENT THAT IT EXCLUDES ABORTION FACILITIES~~

1 ~~WHICH ARE NOT SUBJECT TO LICENSURE UNDER THE ACT.~~

2 SECTION 4. SECTION 813 OF THE ACT, ADDED JULY 12, 1980  
3 (P.L.655, NO.136), IS AMENDED TO READ:

4 SECTION 813. RIGHT TO ENTER AND INSPECT.

5 (A) AUTHORIZATION.--FOR THE PURPOSE OF DETERMINING THE  
6 SUITABILITY OF THE APPLICANTS AND OF THE PREMISES OR FOR  
7 DETERMINING THE ADEQUACY OF THE CARE AND TREATMENT PROVIDED OR  
8 THE CONTINUING CONFORMITY OF THE LICENSEES TO THIS ACT AND TO  
9 APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS, ANY AUTHORIZED  
10 AGENT OF THE DEPARTMENT MAY ENTER, VISIT AND INSPECT THE  
11 BUILDING, GROUNDS, EQUIPMENT AND SUPPLIES OF ANY HEALTH CARE  
12 FACILITY LICENSED OR REQUIRING A LICENSE UNDER THIS ACT AND  
13 SHALL HAVE FULL AND FREE ACCESS TO THE RECORDS OF THE FACILITY  
14 AND TO THE PATIENTS AND EMPLOYEES THEREIN AND THEIR RECORDS, AND  
15 SHALL HAVE FULL OPPORTUNITY TO INTERVIEW, INSPECT, AND EXAMINE  
16 SUCH PATIENTS AND EMPLOYEES. UPON ENTERING A HEALTH CARE  
17 FACILITY THE INSPECTORS SHALL PROPERLY IDENTIFY THEMSELVES TO  
18 THE INDIVIDUAL ON THE PREMISES THEN IN CHARGE OF THE FACILITY.

19 (B) ABORTION FACILITIES.--

20 (1) IN ADDITION TO AN INSPECTION UNDER SUBSECTION (A),  
21 THE DEPARTMENT SHALL CONDUCT, ON AN ANNUAL BASIS, AT LEAST  
22 ONE UNANNOUNCED INSPECTION OF EACH ABORTION FACILITY.

23 (2) AN INSPECTION OF AN ABORTION FACILITY UNDER THIS  
24 SECTION SHALL BE CONDUCTED IN A MANNER WHICH RESPECTS THE  
25 PRIVACY OF EACH PATIENT OF THE FACILITY.

26 SECTION 5. NOTHING IN THIS ACT SHALL BE CONSTRUED TO LIMIT:

27 (1) A PROVISION OF 18 PA.C.S. CH. 32; OR

28 (2) A REGULATION PROMULGATED UNDER 18 PA.C.S. CH. 32 IF  
29 THE REGULATION PROVIDES GREATER HEALTH AND SAFETY PROTECTION  
30 THAN THIS ACT OR A REGULATION PROMULGATED UNDER THIS ACT.

1 SECTION 6. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY  
2 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR  
3 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT  
4 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN  
5 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

6 SECTION ~~5~~ 7. THIS ACT SHALL TAKE EFFECT IN 180 DAYS.

