

AMENDMENTS TO HOUSE BILL NO. 574

Sponsor: REPRESENTATIVE BROWNLEE

Printer's No. 1521

1 Amend Bill, page 1, lines 1 through 11, by striking out all
2 of said lines and inserting

3 Imposing duties upon the Department of Health; and imposing
4 penalties.

5 Amend Bill, page 1, lines 14 through 17; pages 2 through 4,
6 lines 1 through 30; page 5, lines 1 through 16, by striking out
7 all of said lines on said pages and inserting

8 Section 1. Short title.

9 This act shall be known and may be cited as the Patient
10 Protection and Abortion Care Act.

11 Section 2. Definitions.

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

15 "Abortion." A medical procedure as defined in 18 Pa.C.S. §
16 3203 (relating to definitions), except the term does not include
17 nonsurgical abortions.

18 "Department." The Department of Health of the Commonwealth.
19 Section 3. Complaints.

20 (a) Department duties.--The department shall establish a
21 system for accepting, investigating and responding to complaints
22 about facilities where abortions are provided. The department
23 shall:

24 (1) Accept complaints from individuals and medical
25 providers regarding conditions or practices that threaten
26 patient safety.

27 (2) Provide an easily accessible complaint form on its
28 Internet website in English and Spanish.

29 (3) Provide assistance upon request to any person
30 wishing to submit a complaint.

31 (4) Not refuse to accept or investigate a complaint
32 solely because it is made anonymously or pseudoanonymously,
33 or solely because the complainant refuses to assist the
34 department with the investigation.

35 (b) Notice.--Facilities where abortions are provided shall

1 prominently post a toll-free telephone number maintained by the
2 department for the purpose of accepting complaints about any
3 facility in this Commonwealth where abortions are provided. This
4 complaint line shall be answered by department staff with recent
5 training in abortion care.

6 (c) Confidentiality.--All information contained in
7 complaints shall be confidential and shall not be subject to
8 disclosure under the act of February 14, 2008 (P.L.6, No.3),
9 known as the Right-to-Know Law.

10 (d) Immunity.--Any person who in good faith makes a
11 complaint under this section is immune from civil and criminal
12 liability for making such good faith complaint.

13 Section 4. Investigation of complaints.

14 (a) General rule.--The department shall promptly assess all
15 complaints it receives pursuant to section 3.

16 (b) Investigation.--If there is reason to suspect that the
17 facility identified in the complaint has committed a violation
18 of duly enacted health or safety laws or regulations which
19 places patients at risk, and if the violation falls within the
20 regulatory authority of the department, the department shall
21 promptly investigate the complaint. This investigation may
22 include interviews of the complainant, scheduled or unannounced
23 inspections of the facility, inspection of facility records and
24 interviews of facility personnel, which shall be performed
25 consistent with section 5.

26 (c) Transfer to Department of State.--If there is reason to
27 suspect that a violation of duly enacted health or safety laws
28 or regulations has occurred at the facility which places
29 patients at risk and which is outside the regulatory authority
30 of the department but within the regulatory authority of the
31 Department of State, the department shall forward the complaint
32 to the Department of State.

33 (d) Transfer to law enforcement.--If, at any point in the
34 department's assessment or investigation of a complaint, there
35 is reason to suspect that a violation of the criminal laws of
36 this Commonwealth has occurred at the facility which places
37 patients or others at risk of bodily harm, the department shall
38 refer the complaint to a law enforcement agency with requisite
39 jurisdiction.

40 Section 5. Inspections of facilities and records.

41 (a) Inspections.--Inspections of facilities undertaken by
42 the department pursuant to this act may be scheduled or
43 unannounced.

44 (b) Identification.--The department shall provide each of
45 its inspectors with official photo identification which the
46 inspectors shall present to the individual on the premises who
47 is in charge of the facility prior to the inspectors' request
48 for entry.

49 (c) Method.--The department shall conduct its inspection in
50 such a way so as not to delay, disrupt or interfere with patient
51 care or jeopardize patient safety and privacy.

1 (d) Patient privacy.--The department shall at all times
2 respect the privacy of patients and others at the facility. The
3 department shall obtain consent from any patient or person
4 accompanying the patient prior to interviewing such person. The
5 department shall not conduct interviews with patients or persons
6 accompanying a patient while patients are preparing for,
7 undergoing or recovering from surgery.

8 (e) Nonprivate records.--In investigating a complaint under
9 this act, the department shall have full and free access to any
10 relevant documents maintained by the facility that pertain to
11 the complaint and that do not identify individual patients,
12 including medication logs, vendor and maintenance contracts,
13 personnel records, professional licensure files, patient safety
14 plans and patient safety committee records and facility policies
15 and procedures.

16 (f) Private records.--

17 (1) The department shall have full and free access to
18 the medical records of patients who have consented in writing
19 to the release of their records.

20 (2) When necessary to investigate a complaint described
21 in section 4(b), the department shall have access to the
22 medical records of patients who have not consented to the
23 release of their records, provided that one of the following
24 is done:

25 (i) The patient records are first redacted to
26 eliminate all patient-identifying information and matter
27 extraneous to the subject under investigation. The
28 department shall reasonably limit its demands for
29 redacted records so as not to unduly burden the facility
30 and so as not to interfere with patient care.

31 (ii) The patient records are obtained pursuant to a
32 duly executed warrant supported by probable cause and
33 describing particularly the items to be searched.

34 (g) Removal of records.--No documents or copies of documents
35 containing patient names, photographs or other information
36 identifying patients shall be removed from the facility without
37 the express written consent of the patient unless obtained
38 pursuant to a duly executed warrant supported by probable cause.

39 (h) Public disclosure.--The department shall not publicly
40 disclose names, photographs or other identifiers of the
41 facility's medical personnel, staff, agents, volunteers or other
42 persons affiliated with the facility.

43 Section 6. Disposition of complaints.

44 (a) Complainant.--At the close of the investigation, upon
45 the request of a complainant who has provided the department
46 with contact information, the department shall inform the
47 complainant of the outcome of its investigation. This
48 information shall be limited to any enforcement actions the
49 department has taken in response to the complaint and any
50 corrective measures the facility has taken. The department shall
51 not disclose confidential information, patient identities or the

1 identities of persons affiliated with the facility.

2 (b) Facility.--

3 (1) If the department's investigation of a complaint
4 reveals that the complaint has no merit, does not implicate
5 patient safety or requires no further action, the department
6 shall so notify the facility identified in the complaint and,
7 if the complainant has so requested, shall also notify the
8 complainant.

9 (2) If the department's investigation of a complaint
10 reveals that the facility has violated duly enacted health
11 and safety laws or regulations, the department shall notify
12 the facility of its deficiencies and require the facility to
13 submit a corrective plan in accordance with applicable
14 administrative procedures.

15 (c) Actions.--If the department's investigation of a
16 complaint reveals conditions or practices posing a substantial
17 threat to patient safety at the facility, the department may
18 take any and all action within its scope of authority necessary
19 to protect the public health, including temporarily or
20 permanently suspending operation of the facility, subject to 2
21 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of
22 Commonwealth agencies) and 7 Subch. A (relating to judicial
23 review of Commonwealth agency action).
24 Section 7. Penalties.

25 (a) Unfounded and false complaint.--Any person who
26 willfully, intentionally or knowingly makes an unfounded or
27 false complaint under section 3 or who makes a complaint for any
28 malicious or improper purpose commits a misdemeanor of the third
29 degree.

30 (b) Confidentiality.--Any person who willfully,
31 intentionally, knowingly or recklessly discloses any
32 confidential information in violation of section 5, 6, 7 or 8
33 commits a misdemeanor of the second degree.

34 (c) Impersonation.--Any person who fraudulently impersonates
35 an inspector of the department for purposes of entering a
36 facility or obtaining documents or other information relating to
37 a facility or its personnel or patients commits a misdemeanor of
38 the second degree.

39 Section 8. Private right of action.

40 Any person or facility where abortion care is provided that
41 is harmed by actions of the department or its agents in
42 violation of any provision of this act may bring a civil action
43 in the court of common pleas for the judicial district in which
44 the violation occurred or in which the provider is located for
45 declaratory and injunctive relief. This right of action is in
46 addition to and does not preclude pursuit of other remedies.

47 Section 9. Effective date.

48 This act shall take effect in 60 days.