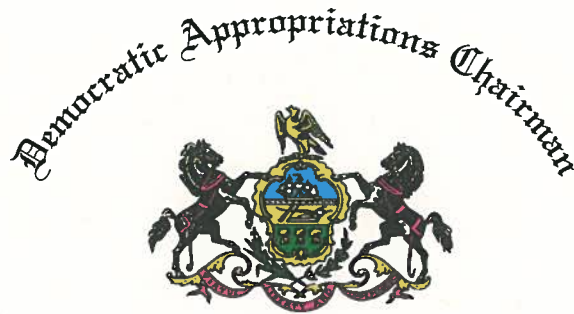


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## Senate of Pennsylvania

DATE: February 4, 2011  
TO: All Senators  
FROM: Senator Vincent Hughes  
SUBJECT: Co-sponsorship – Legislation in response to Gosnell Grand Jury report

In the near future, I will be introducing a package of bills in response to the indictment of Kermit Gosnell, a physician who practiced in my senatorial district. Dr. Gosnell was indicted by a Philadelphia grand jury for numerous crimes including murder and violations of the Abortion Control Act. The grand jury report revealed not only numerous deficiencies in state law but also numerous failures by individuals representing all levels of government to implement and carry out their responsibilities under current law.

My legislation is based upon a comprehensive review of the grand jury report and implements a number of recommendations made by the grand jury. The legislation is as follows:

**1. Increase the statute of limitations for infanticide and abortions performed after 24 weeks gestational age.**

This bill amends Title 42 and is based on **grand jury recommendations #1 and #2 (p. 247)**. The statute of limitations for the crime of infanticide would be removed. The statute of limitations for the crime of performing an abortion after 24 weeks gestational age would be increased from 2 to 5 years.

**2. Amend the Administrative Code to require annual inspections of medical facilities that provide abortion services and to simplify the process for filing a complaint with the Department of Health ("DOH") or the Department of State ("DOS").**

Annual Inspections of medical facilities that provide abortions. – This bill amends the Administrative Code. All facilities that are approved by DOH under 28 Pa.Code §29.43 (relating to facility approval) would be subject to an annual announced on-site inspection and at least one unannounced on-site inspection. DOH could conduct additional announced or unannounced inspections as it deems necessary.

Simplify process for filing complaint with DOH and DOS. – This bill requires DOH to create a single statewide toll-free telephone number where patients, persons acting on behalf of patients, or other health care professionals can lodge a complaint about a facility or a health care professional working at the facility. The bill is based on **grand jury recommendation #7 (p. 253)**. DOH would be required to either investigate the complaint or forward the complaint to DOS for investigation if the complaint involved a health care professional licensed by DOS. DOH would also be authorized to refer the case to law enforcement if DOH reasonably believes the allegations, if true, constitute a violation of criminal law. Each medical facility would be required to post the toll-free number in a conspicuous place within the facility.

**3. Amend Chapter 3 of the MCARE Act to ensure that investigations and inspections are conducted after a medical facility reports a serious event and to clarify that DOH is authorized to share the results of such investigation with DOS or law enforcement.**

Require the DOH to initiate an investigation of a medical facility that reports a "serious event" within 5 days of receipt and conduct an onsite inspection of the medical facility within 10 days of receipt. -- This bill amends Chapter 3 of the MCARE Act. Under the Act, medical facilities are required to report "serious events" to the Department of Health however, the department is not required to investigate such reports or conduct an on-site inspection of a facility that makes such a report. The **grand jury report (pp. 149-152)** identified at least one instance where Gosnell reported a "serious event" (i.e., the death of Karnamaya Mongar) but no follow-up was conducted. A routine follow-up may have exposed the Gosnell facility much earlier than February 2010.

Clarify that DOH may forward any information obtained during an investigation or inspection to law enforcement or DOS if DOH believes further investigation is necessary. – This bill also amends Chapter 3 of the MCARE Act and is based on **grand jury recommendations #9 and #11 (pp. 255, 258)**. According to the grand jury (**p. 258**), representatives of DOH claimed the law prohibited them from sharing information with each other and with law enforcement. This bill clarifies that sharing such information is not only permitted but required.

**4. Increase penalties for unauthorized practice of medicine under the Medical Practice Act of 1985 and Osteopathic Medical Practice Act.** – These bills adds criminal penalties for the unauthorized practice of medicine and are based on **grand jury recommendation #3 (p. 248)**. Numerous individuals associated with the Gosnell clinic held themselves out as medical professionals even though they had little or no training. The grand jury report stated that no crime exists for impersonating a doctor, however, Act 12 of 2010 seems to address that issue. The grand jury did reference that no criminal penalties exist for unauthorized practice of medicine (**p. 248**). This bill would create a first degree misdemeanor punishable by a minimum \$5,000 fine and/or not more than 5 years imprisonment.

If you would like to co-sponsor any of the proposed bills, please contact Jackie Hopp at 7-7112 or [jhopp@pasenate.com](mailto:jhopp@pasenate.com).