
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 742

Session of
1981

INTRODUCED BY SINGEL, PECORA, GREENLEAF, STAPLETON, REIBMAN,
SNYDER, MELLOW, ROMANELLI, LLOYD, MESSINGER, LYNCH, PRICE,
ANDREZESKI, JUBELIRER, KELLEY, FISHER AND STOUT, APRIL 28,
1981

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
DECEMBER 9, 1981

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, REGULATING ABORTIONS AND further ←
3 providing that certain competition between individuals and
4 the promotion of such competition be unlawful and providing
5 penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 18, act of November 25, 1970 (P.L.707,
9 No.230), known as the Pennsylvania Consolidated Statutes, is
10 amended by adding A CHAPTER AND a section to read: ←

11 CHAPTER 32 ←

12 ABORTION

13 SEC.

14 3201. SHORT TITLE OF CHAPTER.

15 3202. LEGISLATIVE INTENT.

16 3203. DEFINITIONS.

17 3204. MEDICAL CONSULTATION AND JUDGMENT.

- 1 3205. INFORMED CONSENT.
2 3206. PARENTAL CONSENT.
3 3207. ABORTION FACILITIES.
4 3208. PRINTED INFORMATION.
5 3209. ABORTION AFTER FIRST TRIMESTER.
6 3210. ABORTION AFTER VIABILITY.
7 3211. VIABILITY; PROFESSIONAL STANDARDS.
8 3212. INFANTICIDE.
9 3213. PROHIBITED ACTS.
10 3214. REPORTING.
11 3215. PUBLICLY OWNED FACILITIES; PUBLIC OFFICIALS AND PUBLIC
12 FUNDS.
13 3216. FETAL EXPERIMENTATION.
14 3217. CIVIL PENALTIES.
15 3218. CRIMINAL PENALTIES.
16 3219. CONSTRUCTION.

17 § 3201. SHORT TITLE OF CHAPTER.

18 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE "ABORTION
19 CONTROL ACT."

20 § 3202. LEGISLATIVE INTENT.

21 (A) RIGHTS AND INTERESTS.--IT IS THE INTENTION OF THE
22 GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA TO PROTECT
23 HEREBY THE LIFE AND HEALTH OF THE WOMAN SUBJECT TO ABORTION, TO
24 PROTECT THE LIFE AND HEALTH OF THE HUMAN BEING WHO MIGHT SURVIVE
25 AT BIRTH AND TO ASSURE THE INTEGRITY AND AUTONOMY OF THE WOMAN'S
26 FREEDOM OF CHOICE WHETHER TO SUBMIT TO ABORTION OR TO CARRY HER
27 CHILD TO TERM. IT IS THE FURTHER INTENTION OF THE GENERAL
28 ASSEMBLY TO FOSTER THE DEVELOPMENT OF STANDARDS OF PROFESSIONAL
29 CONDUCT IN A NOVEL AREA OF MEDICAL PRACTICE, TO PROVIDE FOR
30 DEVELOPMENT OF STATISTICAL DATA AND TO PROTECT THE RIGHT OF THE

1 MINOR WOMAN VOLUNTARILY TO DECIDE TO SUBMIT TO ABORTION OR TO
2 CARRY HER CHILD TO TERM. THE GENERAL ASSEMBLY FINDS AS FACT THAT
3 THE RIGHTS AND INTERESTS FURTHERED BY THIS CHAPTER ARE NOT
4 SECURE IN THE CONTEXT IN WHICH ABORTION IS PRESENTLY PERFORMED.

5 (B) CONCLUSIONS.--RELIABLE AND CONVINCING EVIDENCE HAS
6 COMPELLED THE GENERAL ASSEMBLY TO CONCLUDE AND THE GENERAL
7 ASSEMBLY DOES HEREBY SOLEMNLY DECLARE AND FIND THAT:

8 (1) MANY WOMEN NOW SEEK OR ARE ENCOURAGED TO UNDERGO
9 ABORTIONS WITHOUT FULL KNOWLEDGE OF THE DEVELOPMENT OF THE
10 UNBORN CHILD OR OF ALTERNATIVES TO ABORTION.

11 (2) THE GESTATIONAL AGE AT WHICH VIABILITY OF AN UNBORN
12 CHILD OCCURS HAS BEEN LOWERING SUBSTANTIALLY AND STEADILY AS
13 ADVANCES IN NEONATAL MEDICAL CARE CONTINUE TO BE MADE.

14 (3) A SIGNIFICANT NUMBER OF LATE-TERM ABORTIONS RESULT
15 IN LIVE BIRTHS, OR IN DELIVERY OF CHILDREN WHO COULD SURVIVE
16 IF MEASURES WERE TAKEN TO BRING ABOUT BREATHING. SOME
17 PHYSICIANS HAVE BEEN ALLOWING THESE CHILDREN TO DIE OR HAVE
18 BEEN FAILING TO INDUCE BREATHING.

19 (4) BECAUSE THE COMMONWEALTH PLACES A SUPREME VALUE UPON
20 PROTECTING HUMAN LIFE, IT IS NECESSARY THAT THOSE PHYSICIANS
21 WHICH IT PERMITS TO PRACTICE MEDICINE BE HELD TO A HIGH
22 STANDARD OF CARE IN CASES WHERE THEIR ACTIONS DO OR MAY
23 RESULT IN THE DEATH OF AN UNBORN CHILD.

24 (5) A REASONABLE WAITING PERIOD, AS CONTAINED IN THIS
25 CHAPTER, IS CRITICAL TO THE ASSURANCE THAT A WOMAN ELECT TO
26 UNDERGO AN ABORTION PROCEDURE ONLY AFTER HAVING THE FULLEST
27 OPPORTUNITY TO GIVE HER INFORMED CONSENT THERETO.

28 (C) CONSTRUCTION.--IN EVERY RELEVANT CIVIL OR CRIMINAL
29 PROCEEDING IN WHICH IT IS POSSIBLE TO DO SO WITHOUT VIOLATING
30 THE FEDERAL CONSTITUTION, THE COMMON AND STATUTORY LAW OF

1 PENNSYLVANIA SHALL BE CONSTRUED SO AS TO EXTEND TO THE UNBORN
2 THE EQUAL PROTECTION OF THE LAWS AND TO FURTHER THE PUBLIC
3 POLICY OF THIS COMMONWEALTH ENCOURAGING CHILDBIRTH OVER
4 ABORTION.

5 (D) RIGHT OF CONSCIENCE.--IT IS THE FURTHER PUBLIC POLICY OF
6 THE COMMONWEALTH OF PENNSYLVANIA TO RESPECT AND PROTECT THE
7 RIGHT OF CONSCIENCE OF ALL PERSONS WHO REFUSE TO OBTAIN,
8 RECEIVE, ACCEPT OR PROVIDE ABORTIONS INCLUDING THOSE PERSONS WHO
9 ARE ENGAGED IN THE DELIVERY OF MEDICAL SERVICES AND MEDICAL CARE
10 WHETHER ACTING INDIVIDUALLY, CORPORATELY OR IN ASSOCIATION WITH
11 OTHER PERSONS; AND TO PROHIBIT ALL FORMS OF DISCRIMINATION,
12 DISQUALIFICATION, COERCION, DISABILITY OR IMPOSITION OF
13 LIABILITY UPON SUCH PERSONS OR ENTITIES BY REASON OF THEIR
14 REFUSING TO ACT CONTRARY TO THEIR CONSCIENCE OR CONSCIENTIOUS
15 CONVICTIONS IN REFUSING TO OBTAIN, RECEIVE, ACCEPT OR PROVIDE
16 ABORTIONS.

17 § 3203. DEFINITIONS.

18 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
19 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
20 MEANINGS GIVEN TO THEM IN THIS SECTION:

21 "ABORTION." THE USE OF ANY MEANS TO TERMINATE THE CLINICALLY
22 DIAGNOSABLE PREGNANCY OF A WOMAN WITH KNOWLEDGE THAT THE
23 TERMINATION BY THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD,
24 CAUSE THE DEATH OF THE UNBORN CHILD EXCEPT THAT, FOR THE
25 PURPOSES OF THIS CHAPTER, ABORTION SHALL NOT MEAN THE USE OF AN
26 INTRAUTERINE DEVICE OR BIRTH CONTROL PILL TO INHIBIT OR PREVENT
27 OVULATION, FERTILIZATION OR THE IMPLANTATION OF A FERTILIZED
28 OVUM WITHIN THE UTERUS.

29 "BOARD." THE ADVISORY HEALTH BOARD OF THE DEPARTMENT.

30 "BORN ALIVE." WHEN USED WITH REGARD TO A HUMAN BEING, MEANS

1 THAT THE HUMAN BEING WAS COMPLETELY EXPELLED OR EXTRACTED FROM
2 HER OR HIS MOTHER AND AFTER SUCH SEPARATION BREATHED OR SHOWED
3 EVIDENCE OF ANY OF THE FOLLOWING: BEATING OF THE HEART,
4 PULSATION OF THE UMBILICAL CORD, DEFINITE MOVEMENT OF VOLUNTARY
5 MUSCLES OR ANY BRAIN-WAVE ACTIVITY.

6 "COMPLICATION." INCLUDES BUT IS NOT LIMITED TO HEMORRHAGE,
7 INFECTION, UTERINE PERFORATION, CERVICAL LACERATION, RETAINED
8 PRODUCTS, RUBELLA DISEASE, HYDATID MOLE, ENDOCERVICAL POLYP AND
9 MALIGNANCIES. THE DEPARTMENT MAY FURTHER DEFINE COMPLICATION.

10 "CONSCIENCE." A SINCERELY HELD SET OF MORAL CONVICTIONS
11 ARISING FROM BELIEF IN AND RELATION TO GOD OR WHICH, THOUGH NOT
12 SO DERIVED, OBTAINS FROM A PLACE IN THE LIFE OF ITS POSSESSOR
13 PARALLEL TO THAT FILLED BY GOD AMONG ADHERENTS TO RELIGIOUS
14 FAITHS. NOTHING, HOWEVER, CONTAINED IN THIS DEFINITION OR THE
15 APPLICATION OF THE DEFINITION IN ANY SECTION OF THIS CHAPTER
16 SHALL BE CONSTRUED IN ANY WAY TO SUPPLANT, ALTER OR OTHERWISE
17 MODIFY THE EXISTING CONCEPTS OF MENS REA OR "GUILTY MIND" AS
18 APPLIED IN CRIMINAL AND CIVIL ACTIONS IN ANY COURT OF COMPETENT
19 JURISDICTION IN THIS COMMONWEALTH.

20 "DEPARTMENT." THE DEPARTMENT OF HEALTH OF THE COMMONWEALTH
21 OF PENNSYLVANIA.

22 "FACILITY" OR "MEDICAL FACILITY." ANY PUBLIC OR PRIVATE
23 HOSPITAL, CLINIC, CENTER, MEDICAL SCHOOL, MEDICAL TRAINING
24 INSTITUTION, HEALTH CARE FACILITY, PHYSICIAN'S OFFICE,
25 INFIRMARY, DISPENSARY, AMBULATORY SURGICAL TREATMENT CENTER OR
26 OTHER INSTITUTION OR LOCATION WHEREIN MEDICAL CARE IS PROVIDED
27 TO ANY PERSON.

28 "FERTILIZATION." THE FERTILIZATION OF AN OVUM BY A SPERM,
29 WHICH SHALL BE DEEMED TO HAVE OCCURRED WHEN THE HEAD OF THE
30 SPERM HAS PENETRATED THE CELL MEMBRANE OF THE OVUM AND THE

1 PROCESS OF DEVELOPMENT, DIFFERENTIATION, CELL MITOSIS AND
2 REPLICATION BEGINS AND SHALL BE SYNONYMOUS WITH THE TERM
3 CONCEPTION.

4 "FIRST TRIMESTER." THE FIRST 12 WEEKS OF GESTATION.

5 "HOSPITAL." AN INSTITUTION LICENSED PURSUANT TO THE
6 PROVISIONS OF THE LAW OF THIS COMMONWEALTH.

7 "HUMAN." OF THE SPECIES HOMO SAPIENS.

8 "HUMAN BEING." FOR PURPOSES OF THIS CHAPTER, ANY INDIVIDUAL
9 ORGANISM, FROM FERTILIZATION UNTIL DEATH, WHO IS A MEMBER OF THE
10 SPECIES HOMO SAPIENS.

11 "IN VITRO FERTILIZATION." THE PURPOSEFUL FERTILIZATION OF A
12 HUMAN OVUM OUTSIDE THE BODY OF A LIVING HUMAN FEMALE.

13 "IN VIVO FERTILIZATION." THE FERTILIZATION OF A HUMAN OVUM
14 INSIDE THE BODY OF A LIVING HUMAN FEMALE BY MEANS OF SEXUAL
15 INTERCOURSE OR ARTIFICIAL INSEMINATION.

16 "MEDICAL EMERGENCY." THAT CONDITION WHICH, ON THE BASIS OF
17 THE PHYSICIAN'S BEST CLINICAL JUDGMENT, SO COMPLICATES A
18 PREGNANCY AS TO NECESSITATE THE IMMEDIATE ABORTION OF SAME TO
19 AVERT THE DEATH OF THE MOTHER.

20 "MEDICAL PERSONNEL." ANY NURSE, NURSES' AIDE, MEDICAL SCHOOL
21 STUDENT, PROFESSIONAL OR ANY OTHER PERSON WHO FURNISHES, OR
22 ASSISTS IN THE FURNISHING OF, MEDICAL CARE.

23 "PHYSICIAN." ANY PERSON LICENSED TO PRACTICE MEDICINE IN
24 THIS COMMONWEALTH.

25 "PREGNANCY." THAT FEMALE REPRODUCTIVE CONDITION CAUSED BY
26 AND COMMENCING WITH FERTILIZATION.

27 "PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD." WHAT, IN THE
28 JUDGMENT OF THE ATTENDING PHYSICIAN, WILL WITH REASONABLE
29 PROBABILITY BE THE GESTATIONAL AGE OF THE UNBORN CHILD AT THE
30 TIME THE ABORTION IS PLANNED TO BE PERFORMED.

1 "UNBORN CHILD." FOR PURPOSES OF THIS CHAPTER, A HUMAN BEING
2 FROM FERTILIZATION UNTIL BIRTH AND INCLUDES "FETUS."

3 "VIABILITY." THAT STAGE OF FETAL DEVELOPMENT WHEN, IN THE
4 JUDGMENT OF THE PHYSICIAN BASED ON THE PARTICULAR FACTS OF THE
5 CASE BEFORE HIM AND IN LIGHT OF THE MOST ADVANCED MEDICAL
6 TECHNOLOGY AND INFORMATION AVAILABLE TO HIM, THERE IS A
7 REASONABLE LIKELIHOOD OF SUSTAINED SURVIVAL OF THE UNBORN CHILD
8 OUTSIDE THE BODY OF HIS OR HER MOTHER, WITH OR WITHOUT
9 ARTIFICIAL SUPPORT.

10 § 3204. MEDICAL CONSULTATION AND JUDGMENT.

11 (A) ABORTION PROHIBITED; EXCEPTIONS.--NO ABORTION SHALL BE
12 PERFORMED EXCEPT BY A PHYSICIAN AFTER EITHER:

13 (1) HE DETERMINES THAT, IN HIS BEST CLINICAL JUDGMENT,
14 THE ABORTION IS NECESSARY; OR

15 (2) HE RECEIVES WHAT HE REASONABLY BELIEVES TO BE A
16 WRITTEN STATEMENT SIGNED BY ANOTHER PHYSICIAN, HEREINAFTER
17 CALLED THE "REFERRING PHYSICIAN," CERTIFYING THAT IN THIS
18 REFERRING PHYSICIAN'S BEST CLINICAL JUDGMENT THE ABORTION IS
19 NECESSARY AND APPENDING A COPY OF THE REPORT FORM REQUIRED BY
20 SECTION 3214 (RELATING TO REPORTING) ON WHICH THE INFORMATION
21 REQUIRED BY SECTION 3214(A)(11) AND (12) HAS BEEN RECORDED BY
22 THE REFERRING PHYSICIAN.

23 (B) REQUIREMENTS.--NO ABORTION SHALL BE PERFORMED EXCEPT IN
24 COMPLIANCE WITH THE FOLLOWING:

25 (1) EXCEPT IN A MEDICAL EMERGENCY WHERE THERE IS
26 INSUFFICIENT TIME BEFORE THE ABORTION IS PERFORMED, THE WOMAN
27 UPON WHOM THE ABORTION IS TO BE PERFORMED SHALL HAVE A
28 PRIVATE MEDICAL CONSULTATION EITHER WITH THE PHYSICIAN WHO IS
29 TO PERFORM THE ABORTION OR WITH THE REFERRING PHYSICIAN. THE
30 CONSULTATION WILL BE IN A PLACE, AT A TIME AND OF A DURATION

1 REASONABLY SUFFICIENT TO ENABLE THE PHYSICIAN TO DETERMINE
2 WHETHER, BASED ON HIS BEST CLINICAL JUDGMENT, THE ABORTION IS
3 NECESSARY.

4 (2) EITHER THE PHYSICIAN WHO IS TO PERFORM THE ABORTION
5 OR THE REFERRING PHYSICIAN WILL DESCRIBE THE BASIS OF HIS
6 BEST CLINICAL JUDGMENT THAT THE ABORTION IS NECESSARY, OR
7 THAT A MEDICAL EMERGENCY EXISTS, ON THE FORM PRESCRIBED BY
8 THE DEPARTMENT UNDER SECTION 3214(A) AND (B).

9 (C) FACTORS.--IN DETERMINING IN ACCORDANCE WITH SUBSECTION
10 (A) OR (B) WHETHER AN ABORTION IS NECESSARY, A PHYSICIAN'S BEST
11 CLINICAL JUDGMENT MAY BE EXERCISED IN THE LIGHT OF ALL FACTORS
12 (PHYSICAL, EMOTIONAL, PSYCHOLOGICAL, FAMILIAL AND THE WOMAN'S
13 AGE) RELEVANT TO THE WELL-BEING OF THE WOMAN.

14 § 3205. INFORMED CONSENT.

15 (A) GENERAL RULE.--NO ABORTION SHALL BE PERFORMED OR INDUCED
16 EXCEPT WITH THE VOLUNTARY AND INFORMED CONSENT OF THE WOMAN UPON
17 WHOM THE ABORTION IS TO BE PERFORMED OR INDUCED. EXCEPT IN THE
18 CASE OF A MEDICAL EMERGENCY, CONSENT TO AN ABORTION IS VOLUNTARY
19 AND INFORMED IF AND ONLY IF:

20 (1) THE WOMAN IS PROVIDED, AT LEAST 24 HOURS BEFORE THE
21 ABORTION, WITH THE FOLLOWING INFORMATION BY THE PHYSICIAN WHO
22 IS TO PERFORM THE ABORTION AND NOT HIS DESIGNATED AGENT OR BY
23 THE REFERRING PHYSICIAN AND NOT HIS DESIGNATED AGENT:

24 (I) THE NAME OF THE PHYSICIAN WHO WILL PERFORM THE
25 ABORTION.

26 (II) THE FACT THAT THERE MAY BE DETRIMENTAL PHYSICAL
27 AND PSYCHOLOGICAL EFFECTS WHICH ARE NOT FORESEEABLE.

28 (III) THE PARTICULAR MEDICAL RISKS, SUBJECTIVELY,
29 ASSOCIATED WITH THE PARTICULAR ABORTION PROCEDURE TO BE
30 EMPLOYED INCLUDING, WHEN MEDICALLY ACCURATE, THE RISKS OF

1 INFECTION, HEMORRHAGE, DANGER TO SUBSEQUENT PREGNANCIES
2 AND INFERTILITY.

3 (IV) THE PROBABLE GESTATIONAL AGE OF THE UNBORN
4 CHILD AT THE TIME THE ABORTION IS TO BE PERFORMED.

5 (V) THE FACT THAT MEDICAL ASSISTANCE BENEFITS ARE
6 AVAILABLE FOR PRENATAL CARE, CHILDBIRTH AND NEONATAL
7 CARE.

8 (VI) THE FACT THAT THE FATHER IS LIABLE TO ASSIST IN
9 THE SUPPORT OF HER CHILD, EVEN IN INSTANCES WHERE THE
10 FATHER HAS OFFERED TO PAY FOR THE ABORTION.

11 (VII) THE MEDICAL RISKS ASSOCIATED WITH CARRYING HER
12 CHILD TO TERM.

13 (2) THE WOMAN IS INFORMED, AT LEAST 24 HOURS BEFORE THE
14 ABORTION, THAT SHE HAS THE RIGHT TO REVIEW THE PRINTED
15 MATERIALS AND PHOTOGRAPHS DESCRIBED IN SECTION 3208 (RELATING
16 TO PRINTED INFORMATION). THE PHYSICIAN SHALL ORALLY INFORM
17 THE WOMAN THAT THE MATERIALS DESCRIBE AND DEPICT THE UNBORN
18 CHILD AND LIST AGENCIES WHICH OFFER ALTERNATIVES TO ABORTION.
19 IF THE WOMAN CHOOSES TO VIEW THE MATERIALS AND PHOTOGRAPHS,
20 COPIES OF THEM SHALL BE FURNISHED TO HER. IF THE WOMAN IS
21 UNABLE TO READ THE MATERIALS FURNISHED HER, THE MATERIALS
22 SHALL BE READ TO HER. IF THE WOMAN SEEKS ANSWERS TO QUESTIONS
23 CONCERNING ANY OF THE INFORMATION OR MATERIALS, ANSWERS SHALL
24 BE PROVIDED HER IN HER OWN LANGUAGE.

25 (3) THE WOMAN CERTIFIES IN WRITING, PRIOR TO THE
26 ABORTION, THAT THE INFORMATION DESCRIBED IN PARAGRAPH (1) HAS
27 BEEN FURNISHED HER AND THAT SHE HAS BEEN GIVEN AN OPPORTUNITY
28 TO REVIEW THE INFORMATION REFERRED TO IN PARAGRAPH (2).

29 (4) PRIOR TO THE PERFORMANCE OF THE ABORTION, THE
30 PHYSICIAN WHO IS TO PERFORM OR INDUCE THE ABORTION OR HIS

1 AGENT RECEIVES A COPY OF THE WRITTEN CERTIFICATION PRESCRIBED
2 BY PARAGRAPH (3).

3 (B) EMERGENCY.--WHERE A MEDICAL EMERGENCY COMPELS THE
4 PERFORMANCE OF AN ABORTION, THE PHYSICIAN SHALL INFORM THE
5 WOMAN, PRIOR TO THE ABORTION IF POSSIBLE, OF THE MEDICAL
6 INDICATIONS SUPPORTING HIS JUDGMENT THAT AN ABORTION IS
7 NECESSARY TO AVERT HER DEATH.

8 § 3206. PARENTAL CONSENT.

9 (A) GENERAL RULE.--EXCEPT IN THE CASE OF A MEDICAL EMERGENCY
10 OR IN THE CASE OF A PREGNANCY THAT IS THE RESULT OF INCEST WHERE
11 THE FATHER OF THE PREGNANT WOMAN IS A PARTY TO THE INCESTUOUS
12 ACT, IF A PREGNANT WOMAN IS LESS THAN 18 YEARS OF AGE AND NOT
13 EMANCIPATED, OR IF SHE HAS BEEN ADJUDGED AN INCOMPETENT UNDER 20
14 PA.C.S. § 5511 (RELATING TO PETITION AND HEARING; EXAMINATION BY
15 COURT-APPOINTED PHYSICIAN), A PHYSICIAN SHALL NOT PERFORM AN
16 ABORTION UPON HER UNLESS HE FIRST OBTAINS BOTH THE CONSENT OF
17 THE PREGNANT WOMAN AND THAT OF ONE OF HER PARENTS, IF SHE IS
18 LESS THAN 18 YEARS OF AGE, OR OF HER GUARDIAN, IF SHE IS SUCH AN
19 INCOMPETENT, EXCEPT AS PROVIDED IN THIS SECTION. IN DECIDING
20 WHETHER TO GRANT SUCH CONSENT, A PREGNANT WOMAN'S PARENTS OR
21 GUARDIAN SHALL CONSIDER ONLY THEIR CHILD'S OR WARD'S BEST
22 INTERESTS. IN OBTAINING THE CONSENT OF THE WOMAN'S PARENTS OR
23 GUARDIAN, THE PHYSICIAN SHALL PROVIDE THEM THE INFORMATION AND
24 MATERIALS SPECIFIED IN SECTION 3205 (RELATING TO INFORMED
25 CONSENT), AND SHALL FURTHER OBTAIN FROM THEM THE CERTIFICATION
26 REQUIRED BY SECTION 3205(A)(3). IN THE CASE OF A PREGNANCY THAT
27 IS THE RESULT OF INCEST WHERE THE FATHER IS A PARTY TO THE
28 INCESTUOUS ACT, THE PREGNANT WOMAN NEED ONLY OBTAIN THE CONSENT
29 OF HER MOTHER.

30 (B) UNAVAILABILITY OF PARENT OR GUARDIAN.--IF BOTH PARENTS

1 HAVE DIED OR ARE OTHERWISE UNAVAILABLE TO THE PHYSICIAN WITHIN A
2 REASONABLE TIME AND IN A REASONABLE MANNER, CONSENT OF THE
3 PREGNANT WOMAN'S GUARDIAN OR GUARDIANS SHALL BE SUFFICIENT. IF
4 THE PREGNANT WOMAN'S PARENTS ARE DIVORCED, CONSENT OF THE PARENT
5 HAVING CUSTODY SHALL BE SUFFICIENT. IF NEITHER ANY PARENT NOR A
6 LEGAL GUARDIAN IS AVAILABLE TO THE PHYSICIAN WITHIN A REASONABLE
7 TIME AND IN A REASONABLE MANNER, CONSENT OF ANY ADULT PERSON
8 STANDING IN LOCO PARENTIS SHALL BE SUFFICIENT.

9 (C) PETITION TO COURT FOR CONSENT.--IF ONE OR BOTH OF THE
10 PARENTS OR GUARDIANS OF THE PREGNANT WOMAN REFUSE TO CONSENT TO
11 THE PERFORMANCE OF AN ABORTION OR IF SHE ELECTS NOT TO SEEK THE
12 CONSENT OF ONE OR BOTH OF HER PARENTS OR GUARDIANS, THE COURT OF
13 COMMON PLEAS OF THE JUDICIAL DISTRICT IN WHICH THE APPLICANT
14 RESIDES OR IN WHICH THE ABORTION IS SOUGHT SHALL, UPON PETITION
15 OR MOTION, AFTER AN APPROPRIATE HEARING, AUTHORIZE A PHYSICIAN
16 TO PERFORM THE ABORTION IF THE COURT DETERMINES THAT THE
17 PREGNANT WOMAN IS MATURE AND CAPABLE OF GIVING INFORMED CONSENT
18 TO THE PROPOSED ABORTION.

19 (D) COURT ORDER.--IF THE COURT DETERMINES THAT THE PREGNANT
20 WOMAN IS NOT MATURE AND CAPABLE OF GIVING INFORMED CONSENT OR IF
21 THE PREGNANT WOMAN DOES NOT CLAIM TO BE MATURE AND CAPABLE OF
22 GIVING INFORMED CONSENT, THE COURT SHALL DETERMINE WHETHER THE
23 PERFORMANCE OF AN ABORTION UPON HER WOULD BE IN HER BEST
24 INTERESTS. IF THE COURT DETERMINES THAT THE PERFORMANCE OF AN
25 ABORTION WOULD BE IN THE BEST INTERESTS OF THE WOMAN, IT SHALL
26 AUTHORIZE A PHYSICIAN TO PERFORM THE ABORTION.

27 (E) REPRESENTATION IN PROCEEDINGS.--THE PREGNANT WOMAN MAY
28 PARTICIPATE IN PROCEEDINGS IN THE COURT ON HER OWN BEHALF AND
29 THE COURT MAY APPOINT A GUARDIAN AD LITEM FOR HER. THE COURT
30 SHALL, HOWEVER, ADVISE HER THAT SHE HAS A RIGHT TO COURT

1 APPOINTED COUNSEL AND SHALL, UPON HER REQUEST, PROVIDE HER WITH
2 SUCH COUNSEL.

3 (F) PROCEEDINGS CONFIDENTIAL.--COURT PROCEEDINGS UNDER THIS
4 SECTION SHALL BE CONFIDENTIAL AND SHALL BE GIVEN SUCH PRECEDENCE
5 OVER OTHER PENDING MATTERS AS WILL ENSURE THAT THE COURT MAY
6 REACH A DECISION PROMPTLY AND WITHOUT DELAY IN ORDER TO SERVE
7 THE BEST INTERESTS OF THE PREGNANT WOMAN. A COURT OF COMMON
8 PLEAS WHICH CONDUCTS PROCEEDINGS UNDER THIS SECTION SHALL MAKE
9 IN WRITING SPECIFIC FACTUAL FINDINGS AND LEGAL CONCLUSIONS
10 SUPPORTING ITS DECISION AND SHALL ORDER A SEALED RECORD OF THE
11 EVIDENCE TO BE MAINTAINED WHICH SHALL INCLUDE ITS OWN FINDINGS
12 AND CONCLUSIONS.

13 (G) COERCION PROHIBITED.--EXCEPT IN A MEDICAL EMERGENCY, NO
14 PARENT, GUARDIAN OR OTHER PERSON STANDING IN LOCO PARENTIS SHALL
15 COERCE A MINOR OR INCOMPETENT WOMAN TO UNDERGO AN ABORTION
16 AGAINST HER WILL. THE COURT SHALL GRANT SUCH RELIEF AS MAY BE
17 NECESSARY TO PREVENT SUCH COERCION. SHOULD A MINOR BE FORCED TO
18 BECOME INDEPENDENT OF HER PARENTS BY REASON OF HER REFUSAL TO
19 UNDERGO ABORTION, SHE SHALL BE CONSIDERED EMANCIPATED FOR
20 PURPOSES OF ELIGIBILITY FOR ASSISTANCE BENEFITS.

21 (H) REGULATION OF PROCEEDINGS.--NO FILING FEES SHALL BE
22 REQUIRED OF ANY SUCH PREGNANT WOMAN OR OF ANY WOMAN AVAILING
23 HERSELF OF THE PROCEDURES PROVIDED BY SUBSECTION (C). AN
24 EXPEDITED CONFIDENTIAL APPEAL SHALL BE AVAILABLE TO ANY PREGNANT
25 WOMAN FOR WHOM THE COURT DENIES AN ORDER AUTHORIZING AN ABORTION
26 AND TO ANY WOMAN FOR WHOM THE COURT DENIES AN ORDER AUTHORIZING
27 A PHYSICIAN AND HIS AGENTS TO REFRAIN FROM GIVING THE
28 INFORMATION PRESCRIBED BY SUBSECTION (A). THE SUPREME COURT OF
29 THIS COMMONWEALTH SHALL ISSUE PROMPTLY SUCH RULES AS MAY BE
30 NECESSARY TO ASSURE THAT THE PROCESS PROVIDED IN SUBSECTIONS (B)

1 AND (C) AND ANY APPEALS OR OTHER PROCEEDINGS WHICH MAY ARISE
2 FROM OR BE RELATED TO IT ARE CONDUCTED WITH ANONYMITY FOR THE
3 MINOR OR INCOMPETENT AND IN SUCH A MANNER AS WILL ENSURE
4 CONFIDENTIALITY AND SUFFICIENT PRECEDENCE OVER OTHER PENDING
5 MATTERS TO ENSURE PROMPTNESS OF DISPOSITION. THE SUPREME COURT
6 SHALL ALSO ISSUE PROMPTLY RULES OR ORDERS CONSISTENT WITH THE
7 PROVISIONS OF THIS CHAPTER TO ELIMINATE ANY UNDUE BURDENS ON THE
8 MINOR'S OR INCOMPETENT'S EFFECTIVE OPPORTUNITY FOR AN ABORTION
9 WITH SUFFICIENT EXPEDITION.

10 (I) PENALTY.--ANY PERSON WHO PERFORMS AN ABORTION UPON A
11 WOMAN WHO IS AN UNEMANCIPATED MINOR OR INCOMPETENT TO WHOM THIS
12 SECTION APPLIES EITHER WITH KNOWLEDGE THAT SHE IS A MINOR OR
13 INCOMPETENT TO WHOM THIS SECTION APPLIES, OR WITH RECKLESS
14 DISREGARD OR NEGLIGENCE AS TO WHETHER SHE IS A MINOR OR
15 INCOMPETENT TO WHOM THIS SECTION APPLIES, AND WHO INTENTIONALLY,
16 KNOWINGLY OR RECKLESSLY FAILS TO CONFORM TO ANY REQUIREMENT OF
17 THIS SECTION COMMITS A FELONY OF THE THIRD DEGREE. FAILURE TO
18 COMPLY WITH THE REQUIREMENTS OF THIS SECTION IS PRIMA FACIE
19 EVIDENCE OF FAILURE TO OBTAIN INFORMED CONSENT AND OF
20 INTERFERENCE WITH FAMILY RELATIONS IN APPROPRIATE CIVIL ACTIONS.
21 THE LAW OF THIS COMMONWEALTH SHALL NOT BE CONSTRUED TO PRECLUDE
22 THE AWARD OF EXEMPLARY DAMAGES OR DAMAGES FOR EMOTIONAL DISTRESS
23 EVEN IF UNACCOMPANIED BY PHYSICAL COMPLICATIONS IN ANY
24 APPROPRIATE CIVIL ACTION RELEVANT TO VIOLATIONS OF THIS SECTION.
25 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE COMMON
26 LAW RIGHTS OF PARENTS.

27 § 3207. ABORTION FACILITIES.

28 (A) REGULATIONS.--THE DEPARTMENT SHALL HAVE POWER TO MAKE
29 RULES AND REGULATIONS PURSUANT TO THIS CHAPTER, WITH RESPECT TO
30 PERFORMANCE OF ABORTIONS AND WITH RESPECT TO FACILITIES IN WHICH

1 ABORTIONS ARE PERFORMED, SO AS TO PROTECT THE HEALTH AND SAFETY
2 OF WOMEN HAVING ABORTIONS AND OF PREMATURE INFANTS ABORTED
3 ALIVE. THESE RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE
4 LIMITED TO, PROCEDURES, STAFF, EQUIPMENT AND LABORATORY TESTING
5 REQUIREMENTS FOR ALL FACILITIES OFFERING ABORTION SERVICES.

6 (B) REPORTS.--WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF
7 THIS CHAPTER, EVERY FACILITY AT WHICH ABORTIONS ARE PERFORMED
8 SHALL FILE, AND UPDATE IMMEDIATELY UPON ANY CHANGE, A REPORT
9 WITH THE DEPARTMENT, WHICH SHALL BE OPEN TO PUBLIC INSPECTION
10 AND COPYING, CONTAINING THE FOLLOWING INFORMATION:

11 (1) NAME AND ADDRESS OF THE FACILITY.

12 (2) NAME AND ADDRESS OF ANY PARENT, SUBSIDIARY OR
13 AFFILIATED ORGANIZATIONS, CORPORATIONS OR ASSOCIATIONS.

14 (3) NAME AND ADDRESS OF ANY PERSON HAVING AN OWNERSHIP
15 OR OTHER BENEFICIAL INTEREST THEREIN.

16 (4) NAME AND ADDRESS OF ANY PERSON SERVING AS AN OFFICER
17 OR DIRECTOR THEREOF.

18 ANY FACILITY FAILING TO COMPLY WITH THE PROVISIONS OF THIS
19 SUBSECTION SHALL BE ASSESSED BY THE DEPARTMENT A FINE OF \$500
20 FOR EACH DAY IT IS IN VIOLATION HEREOF.

21 § 3208. PRINTED INFORMATION.

22 (A) GENERAL RULE.--THE DEPARTMENT SHALL CAUSE TO BE
23 PUBLISHED IN ENGLISH, SPANISH AND VIETNAMESE, WITHIN 60 DAYS
24 AFTER THIS CHAPTER BECOMES LAW, THE FOLLOWING EASILY
25 COMPREHENSIBLE PRINTED MATERIALS:

26 (1) GEOGRAPHICALLY INDEXED MATERIALS DESIGNED TO INFORM
27 THE WOMAN OF PUBLIC AND PRIVATE AGENCIES AND SERVICES
28 AVAILABLE TO ASSIST A WOMAN THROUGH PREGNANCY, UPON
29 CHILDBIRTH AND WHILE THE CHILD IS DEPENDENT, INCLUDING
30 ADOPTION AGENCIES, WHICH SHALL INCLUDE A COMPREHENSIVE LIST

1 OF THE AGENCIES AVAILABLE, A DESCRIPTION OF THE SERVICES THEY
2 OFFER AND A DESCRIPTION OF THE MANNER, INCLUDING TELEPHONE
3 NUMBERS, IN WHICH THEY MIGHT BE CONTACTED, OR, AT THE OPTION
4 OF THE DEPARTMENT, PRINTED MATERIALS INCLUDING A TOLL-FREE,
5 24-HOUR A DAY TELEPHONE NUMBER WHICH MAY BE CALLED TO OBTAIN,
6 ORALLY, SUCH A LIST AND DESCRIPTION OF AGENCIES IN THE
7 LOCALITY OF THE CALLER AND OF THE SERVICES THEY OFFER. THE
8 MATERIALS SHALL INCLUDE THE FOLLOWING STATEMENT:

9 "THERE ARE MANY PUBLIC AND PRIVATE AGENCIES WILLING
10 AND ABLE TO HELP YOU TO CARRY YOUR CHILD TO TERM, AND TO
11 ASSIST YOU AND YOUR CHILD AFTER YOUR CHILD IS BORN,
12 WHETHER YOU CHOOSE TO KEEP YOUR CHILD OR TO PLACE HER OR
13 HIM FOR ADOPTION. THE COMMONWEALTH OF PENNSYLVANIA
14 STRONGLY URGES YOU TO CONTACT THEM BEFORE MAKING A FINAL
15 DECISION ABOUT ABORTION. THE LAW REQUIRES THAT YOUR
16 PHYSICIAN OR HIS AGENT GIVE YOU THE OPPORTUNITY TO CALL
17 AGENCIES LIKE THESE BEFORE YOU UNDERGO AN ABORTION."

18 (2) MATERIALS DESIGNED TO INFORM THE WOMAN OF THE
19 PROBABLE ANATOMICAL AND PHYSIOLOGICAL CHARACTERISTICS OF THE
20 UNBORN CHILD AT TWO-WEEK GESTATIONAL INCREMENTS FROM
21 FERTILIZATION TO FULL TERM, INCLUDING ANY RELEVANT
22 INFORMATION ON THE POSSIBILITY OF THE UNBORN CHILD SURVIVAL.
23 THE MATERIALS SHALL BE OBJECTIVE, NONJUDGMENTAL AND DESIGNED
24 TO CONVEY ONLY ACCURATE SCIENTIFIC INFORMATION ABOUT THE
25 UNBORN CHILD AT THE VARIOUS GESTATIONAL AGES. THE MATERIALS
26 SHALL INCLUDE DETAILED COLOR PHOTOGRAPHS OF AN UNBORN CHILD
27 AT TWO-WEEK GESTATIONAL INCREMENTS FROM FERTILIZATION TO FULL
28 TERM.

29 (B) FORMAT.--THE MATERIALS SHALL BE PRINTED IN A TYPEFACE
30 LARGE ENOUGH TO BE CLEARLY LEGIBLE.

1 (C) FREE DISTRIBUTION.--THE MATERIALS REQUIRED UNDER THIS
2 SECTION SHALL BE AVAILABLE AT NO COST FROM THE DEPARTMENT UPON
3 REQUEST AND IN APPROPRIATE NUMBER TO ANY PERSON, FACILITY OR
4 HOSPITAL.

5 § 3209. ABORTION AFTER FIRST TRIMESTER.

6 ALL ABORTIONS SUBSEQUENT TO THE FIRST TRIMESTER OF PREGNANCY
7 SHALL BE PERFORMED, INDUCED AND COMPLETED IN A HOSPITAL ON AN
8 INPATIENT BASIS.

9 § 3210. ABORTION AFTER VIABILITY.

10 (A) PROHIBITION; PENALTY.--ANY PERSON WHO INTENTIONALLY,
11 KNOWINGLY OR RECKLESSLY PERFORMS OR INDUCES AN ABORTION WHEN THE
12 FETUS IS VIABLE COMMITS A FELONY OF THE SECOND DEGREE. IT SHALL
13 BE A COMPLETE DEFENSE TO ANY CHARGE BROUGHT AGAINST A PHYSICIAN
14 FOR VIOLATING THE REQUIREMENTS OF THIS SECTION THAT HE HAD
15 CONCLUDED IN GOOD FAITH, IN HIS BEST MEDICAL JUDGMENT, THAT THE
16 UNBORN CHILD WAS NOT VIABLE AT THE TIME THE ABORTION WAS
17 PERFORMED OR INDUCED OR THAT THE ABORTION WAS NECESSARY TO
18 PRESERVE MATERNAL LIFE OR HEALTH.

19 (B) DEGREE OF CARE.--EVERY PERSON WHO PERFORMS OR INDUCES AN
20 ABORTION AFTER A FETUS HAS BEEN DETERMINED TO BE VIABLE SHALL
21 EXERCISE THAT DEGREE OF PROFESSIONAL SKILL, CARE AND DILIGENCE
22 WHICH SUCH PERSON WOULD BE REQUIRED TO EXERCISE IN ORDER TO
23 PRESERVE THE LIFE AND HEALTH OF ANY UNBORN CHILD INTENDED TO BE
24 BORN AND NOT ABORTED AND THE ABORTION TECHNIQUE EMPLOYED SHALL
25 BE THAT WHICH WOULD PROVIDE THE BEST OPPORTUNITY FOR THE UNBORN
26 CHILD TO BE ABORTED ALIVE UNLESS, IN THE GOOD FAITH JUDGMENT OF
27 THE PHYSICIAN, THAT METHOD OR TECHNIQUE WOULD PRESENT A
28 SIGNIFICANTLY GREATER MEDICAL RISK TO THE LIFE OR HEALTH OF THE
29 PREGNANT WOMAN THAN WOULD ANOTHER AVAILABLE METHOD OR TECHNIQUE
30 AND THE PHYSICIAN REPORTS THE BASIS FOR HIS JUDGMENT. THE

1 POTENTIAL PSYCHOLOGICAL OR EMOTIONAL IMPACT ON THE MOTHER OF THE
2 UNBORN CHILD'S SURVIVAL SHALL NOT BE DEEMED A MEDICAL RISK TO
3 THE MOTHER. ANY PERSON WHO INTENTIONALLY, KNOWINGLY OR
4 RECKLESSLY VIOLATES THE PROVISIONS OF THIS SUBSECTION COMMITS A
5 FELONY OF THE SECOND DEGREE.

6 (C) SECOND PHYSICIAN.--ANY PERSON WHO INTENDS TO PERFORM AN
7 ABORTION THE METHOD CHOSEN FOR WHICH, IN HIS GOOD FAITH
8 JUDGMENT, DOES NOT PRECLUDE THE POSSIBILITY OF THE CHILD
9 SURVIVING THE ABORTION, SHALL ARRANGE FOR THE ATTENDANCE, IN THE
10 SAME ROOM IN WHICH THE ABORTION IS TO BE COMPLETED, OF A SECOND
11 PHYSICIAN. IMMEDIATELY AFTER THE COMPLETE EXPULSION OR
12 EXTRACTION OF THE CHILD, THE SECOND PHYSICIAN SHALL TAKE CONTROL
13 OF THE CHILD AND SHALL PROVIDE IMMEDIATE MEDICAL CARE FOR THE
14 CHILD, TAKING ALL REASONABLE STEPS NECESSARY, IN HIS JUDGMENT,
15 TO PRESERVE THE CHILD'S LIFE AND HEALTH. ANY PERSON WHO
16 INTENTIONALLY, KNOWINGLY OR RECKLESSLY VIOLATES THE PROVISIONS
17 OF THIS SUBSECTION COMMITS A FELONY OF THE SECOND DEGREE.

18 § 3211. VIABILITY; PROFESSIONAL STANDARDS.

19 (A) ANNUAL HEARINGS.--THE BOARD SHALL CAUSE AN ANNUAL
20 HEARING TO BE HELD FOR THE PURPOSE OF DETERMINING, IN LIGHT OF
21 CURRENT AND ADVANCING MEDICAL KNOWLEDGE AND SKILL, WHEN AND
22 UNDER WHAT CONDITIONS THERE IS A LIKELIHOOD THAT AN UNBORN CHILD
23 IS VIABLE AND SHALL, FROM TIME TO TIME, ISSUE, PROMULGATE,
24 REPORT AND MAINTAIN STANDARDS FOR THE LIKELIHOOD OF VIABILITY
25 TOGETHER WITH A DISCUSSION THEREOF IN A MANNER REASONABLY
26 CALCULATED TO PROVIDE NOTICE TO THE MEDICAL PROFESSION OF THIS
27 COMMONWEALTH FOR THE PURPOSES SET FORTH IN THIS SUBSECTION.

28 (B) INITIAL HEARING.--THE INITIAL HEARING REQUIRED UNDER
29 THIS SECTION SHALL BE HELD WITHIN 120 DAYS FROM THE TIME THIS
30 CHAPTER BECOMES LAW AND SHALL BE CONDUCTED ANNUALLY THEREAFTER.

1 THE BOARD SHALL PUBLISH NOTICE OF THE TIME AND THE PLACE SUCH
2 HEARINGS WILL BE HELD IN A MANNER REASONABLY CALCULATED TO
3 PROVIDE NOTICE TO THE MEDICAL PROFESSION OF THIS COMMONWEALTH.
4 ALL RELEVANT WRITTEN AND ORAL TESTIMONY SHALL BE ACCEPTED AND
5 CONSIDERED AND THE BOARD MAY CONSIDER RELEVANT DATA FROM SOURCES
6 OTHER THAN THE EVIDENCE OR TESTIMONY OFFERED AT THE HEARING. THE
7 DETERMINATIONS OF THE BOARD SHALL BE BASED ON THE PREPONDERANCE
8 OF EVIDENCE. WITHIN 60 DAYS OF THE TIME THIS SECTION BECOMES
9 LAW, THE BOARD SHALL PROMULGATE REGULATIONS RELEVANT TO THE
10 CONDUCT OF SUCH HEARINGS AND MAY REVISE THEM THEREAFTER AS IT
11 DEEMS APPROPRIATE. WITHIN 60 DAYS AFTER EACH ANNUAL HEARING, THE
12 BOARD SHALL PUBLISH STANDARDS FOR THE LIKELIHOOD OF VIABILITY,
13 TOGETHER WITH A DISCUSSION THEREOF, IN A MANNER REASONABLY
14 CALCULATED TO PROVIDE NOTICE TO THE MEDICAL PROFESSION OF THIS
15 COMMONWEALTH. FOR THE PURPOSES OF SUBSECTION (C), THESE
16 STANDARDS SHALL TAKE EFFECT 30 DAYS AFTER PUBLICATION.

17 (C) DETERMINATION OF VIABILITY.--

18 (1) PRIOR TO PERFORMING ANY ABORTION UPON A WOMAN
19 SUBSEQUENT TO HER FIRST TRIMESTER OF PREGNANCY, THE PHYSICIAN
20 SHALL DETERMINE WHETHER, IN HIS GOOD FAITH JUDGMENT, THE
21 CHILD IS VIABLE OR MEETS THE CURRENT STANDARDS FOR THE
22 LIKELIHOOD OF VIABILITY AS ISSUED BY THE BOARD.

23 (2) WHERE A PHYSICIAN HAS DETERMINED THAT A CHILD IS
24 VIABLE, HE SHALL REPORT THE BASIS FOR HIS DETERMINATION THAT
25 THE ABORTION IS NECESSARY TO PRESERVE MATERNAL LIFE OR
26 HEALTH.

27 (3) WHERE A PHYSICIAN DETERMINES THAT A CHILD MEETS THE
28 CURRENT STANDARDS FOR THE LIKELIHOOD OF VIABILITY AS ISSUED
29 BY THE BOARD, HE SHALL REPORT THE BASIS FOR HIS DETERMINATION
30 THAT THE CHILD IS NOT VIABLE.

1 (4) WHERE A PHYSICIAN DETERMINES THAT A CHILD DOES NOT
2 MEET THE CURRENT STANDARDS FOR THE LIKELIHOOD OF VIABILITY AS
3 ISSUED BY THE BOARD, HE SHALL REPORT THE BASIS FOR SO
4 DETERMINING.

5 (D) UNPROFESSIONAL CONDUCT.--FAILURE OF ANY PHYSICIAN TO
6 CONFORM TO ANY REQUIREMENT OF THIS SECTION CONSTITUTES
7 "UNPROFESSIONAL CONDUCT" WITHIN THE MEANING OF THE ACT OF JULY
8 20, 1974 (P.L.551, NO.190), KNOWN AS THE "MEDICAL PRACTICE ACT
9 OF 1974." UPON A FINDING BY THE STATE BOARD OF MEDICAL EDUCATION
10 AND LICENSURE THAT ANY PHYSICIAN HAS FAILED TO CONFORM TO ANY
11 REQUIREMENT OF THIS SECTION, THE BOARD SHALL NOT FAIL TO SUSPEND
12 THAT PHYSICIAN'S LICENSE FOR A PERIOD OF THREE MONTHS OR MORE.
13 INTENTIONAL, KNOWING OR RECKLESS FALSIFICATION OF ANY REPORT
14 REQUIRED UNDER THIS SECTION IS A MISDEMEANOR OF THE FIRST
15 DEGREE.

16 § 3212. INFANTICIDE.

17 (A) STATUS OF FETUS.--THE LAW OF THIS COMMONWEALTH SHALL NOT
18 BE CONSTRUED TO IMPLY THAT ANY HUMAN BEING BORN ALIVE IN THE
19 COURSE OF OR AS A RESULT OF AN ABORTION OR PREGNANCY
20 TERMINATION, NO MATTER WHAT MAY BE THAT HUMAN BEING'S CHANCE OF
21 SURVIVAL, IS NOT A PERSON UNDER THE CONSTITUTION AND LAWS,
22 INCLUDING THIS TITLE.

23 (B) CARE REQUIRED.--NO CHILD BORN ALIVE WITH ANY DEFECT,
24 DISABILITY, DEFICIENCY, DISEASE OR HANDICAP WHATSOEVER SHALL BE
25 DEPRIVED OF ANY NECESSARY SUSTENANCE OR MEDICAL TREATMENT SOLELY
26 BECAUSE OF SUCH DEFECT, DISABILITY, DEFICIENCY, DISEASE OR
27 HANDICAP. ANY INDIVIDUAL WHO VIOLATES THE PROVISIONS OF THIS
28 SUBSECTION COMMITS A FELONY OF THE THIRD DEGREE.

29 (C) OBLIGATION OF PHYSICIAN.--WHENEVER THE PHYSICIAN OR ANY
30 OTHER PERSON IS PREVENTED BY LACK OF PARENTAL OR GUARDIAN

1 CONSENT FROM FULFILLING HIS OBLIGATIONS UNDER SUBSECTION (B), HE
2 SHALL NONETHELESS FULFILL SAID OBLIGATIONS AND IMMEDIATELY
3 NOTIFY THE JUVENILE COURT OF THE FACTS OF THE CASE. THE JUVENILE
4 COURT SHALL IMMEDIATELY INSTITUTE AN INQUIRY AND, IF IT FINDS
5 THAT THE LACK OF PARENTAL OR GUARDIAN CONSENT IS PREVENTING
6 TREATMENT REQUIRED UNDER SUBSECTION (B), IT SHALL IMMEDIATELY
7 GRANT INJUNCTIVE RELIEF TO REQUIRE SUCH TREATMENT.

8 § 3213. PROHIBITED ACTS.

9 (A) PAYMENT FOR ABORTION.--ANY PERSON WHO INTENTIONALLY
10 SOLICITS OR OBTAINS ANY PAYMENT FROM OR ON BEHALF OF A WOMAN FOR
11 THE STATED OR IMPLIED PURPOSE OF HAVING AN ABORTION OR PREGNANCY
12 TERMINATION PERFORMED OR INDUCED UPON THE WOMAN SHALL, BEFORE
13 ACCEPTING SUCH PAYMENT, MAKE OR OBTAIN A DETERMINATION THAT THE
14 WOMAN IS PREGNANT. ANY PERSON WHO INTENTIONALLY OR KNOWINGLY
15 ACCEPTS SUCH A PAYMENT WITHOUT FIRST MAKING OR OBTAINING SUCH A
16 DETERMINATION COMMITS A FELONY OF THE THIRD DEGREE. ANY PERSON
17 WHO MAKES SUCH A DETERMINATION ERRONEOUSLY EITHER KNOWING THAT
18 IT IS ERRONEOUS OR WITH RECKLESS DISREGARD OR NEGLIGENCE AS TO
19 WHETHER IT IS ERRONEOUS, AND WHO EITHER:

20 (1) THEREUPON OR THEREAFTER INTENTIONALLY RELIES UPON
21 THAT DETERMINATION IN SOLICITING OR OBTAINING ANY SUCH
22 PAYMENT; OR

23 (2) INTENTIONALLY CONVEYS THAT DETERMINATION TO ANY
24 PERSON OR PERSONS WITH KNOWLEDGE THAT, OR WITH RECKLESS
25 DISREGARD AS TO WHETHER, THAT DETERMINATION WILL BE RELIED
26 UPON IN ANY SOLICITATION OR OBTAINING OF ANY SUCH PAYMENT;
27 COMMITS A FELONY ON THE THIRD DEGREE.

28 (B) REFERRAL FEE.--THE PAYMENT OR RECEIPT OF A REFERRAL FEE
29 IN CONNECTION WITH THE PERFORMANCE OF AN ABORTION IS A
30 MISDEMEANOR OF THE FIRST DEGREE. FOR PURPOSES OF THIS SECTION,

1 "REFERRAL FEE" MEANS THE TRANSFER OF ANYTHING OF VALUE BETWEEN A
2 PHYSICIAN WHO PERFORMS AN ABORTION OR AN OPERATOR OR EMPLOYEE OF
3 A CLINIC AT WHICH AN ABORTION IS PERFORMED AND THE PERSON WHO
4 ADVISED THE WOMAN RECEIVING THE ABORTION TO USE THE SERVICES OF
5 THAT PHYSICIAN OR CLINIC.

6 (C) REGULATIONS.--THE DEPARTMENT SHALL ISSUE REGULATIONS TO
7 ASSURE THAT PRIOR TO THE PERFORMANCE OF ANY ABORTION, INCLUDING
8 ABORTIONS PERFORMED IN THE FIRST TRIMESTER OF PREGNANCY, THE
9 MATERNAL RH STATUS SHALL BE DETERMINED AND THAT ANTI-RH
10 SENSITIZATION PROPHYLAXIS SHALL BE PROVIDED TO EACH PATIENT AT
11 RISK OF SENSITIZATION UNLESS THE PATIENT REFUSES TO ACCEPT THE
12 TREATMENT. EXCEPT WHEN, SUBJECTIVELY, THERE EXISTS A MEDICAL
13 EMERGENCY OR THERE EXISTS, SUBJECTIVELY, NO POSSIBILITY OF RH
14 SENSITIZATION, INTENTIONAL, KNOWING, RECKLESS OR NEGLIGENT
15 FAILURE TO CONFORM TO THE REGULATIONS ISSUED PURSUANT TO THIS
16 SUBSECTION IS A MISDEMEANOR OF THE SECOND DEGREE.

17 (D) PARTICIPATION IN ABORTION.--NO MEDICAL PERSONNEL OR
18 MEDICAL FACILITY, NOR ANY EMPLOYEE, AGENT OR STUDENT THEREOF,
19 SHALL BE REQUIRED AGAINST HIS OR ITS CONSCIENCE TO AID, ABET OR
20 FACILITATE PERFORMANCE OF AN ABORTION OR DISPENSATION OF AN
21 ABORTIFACIENT AND FAILURE OR REFUSAL TO DO SO SHALL NOT BE A
22 BASIS FOR ANY CIVIL, CRIMINAL, ADMINISTRATIVE OR DISCIPLINARY
23 ACTION, PENALTY OR PROCEEDING, NOR MAY IT BE THE BASIS FOR
24 REFUSING TO HIRE OR ADMIT ANYONE. NOTHING HEREIN SHALL BE
25 CONSTRUED TO LIMIT THE PROVISIONS OF THE ACT OF OCTOBER 27, 1955
26 (P.L.744, NO.222), KNOWN AS THE "PENNSYLVANIA HUMAN RELATIONS
27 ACT." ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION
28 SHALL BE CIVILLY LIABLE TO THE PERSON THEREBY INJURED AND, IN
29 ADDITION, SHALL BE LIABLE TO THAT PERSON FOR PUNITIVE DAMAGES IN
30 THE AMOUNT OF \$5,000.

1 (E) IN VITRO FERTILIZATION.--ALL PERSONS CONDUCTING, OR
2 EXPERIMENTING IN, IN VITRO FERTILIZATION SHALL FILE QUARTERLY
3 REPORTS WITH THE DEPARTMENT, WHICH SHALL BE AVAILABLE FOR PUBLIC
4 INSPECTION AND COPYING, CONTAINING THE FOLLOWING INFORMATION:

5 (1) NAMES OF ALL PERSONS CONDUCTING OR ASSISTING IN THE
6 FERTILIZATION OR EXPERIMENTATION PROCESS.

7 (2) LOCATIONS WHERE THE FERTILIZATION OR EXPERIMENTATION
8 IS CONDUCTED.

9 (3) NAME AND ADDRESS OF ANY PERSON, FACILITY, AGENCY OR
10 ORGANIZATION SPONSORING THE FERTILIZATION OR EXPERIMENTATION
11 EXCEPT THAT NAMES OF ANY PERSONS WHO ARE DONORS OR RECIPIENTS
12 OF SPERM OR EGGS SHALL NOT BE DISCLOSED.

13 (4) NUMBER OF EGGS FERTILIZED.

14 (5) NUMBER OF FERTILIZED EGGS DESTROYED OR DISCARDED.

15 (6) NUMBER OF WOMEN IMPLANTED WITH A FERTILIZED EGG.

16 ANY PERSON REQUIRED UNDER THIS SUBSECTION TO FILE A REPORT, KEEP
17 RECORDS OR SUPPLY INFORMATION, WHO WILLFULLY FAILS TO FILE SUCH
18 REPORT, KEEP RECORDS OR SUPPLY SUCH INFORMATION OR WHO SUBMITS A
19 FALSE REPORT COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

20 § 3214. REPORTING.

21 (A) GENERAL RULE.--A REPORT OF EACH ABORTION PERFORMED SHALL
22 BE MADE TO THE DEPARTMENT ON FORMS PRESCRIBED BY IT. THE REPORT
23 FORMS SHALL NOT IDENTIFY THE INDIVIDUAL PATIENT BY NAME, BUT BY
24 AN INDIVIDUAL NUMBER TO BE NOTED IN THE WOMAN'S PERMANENT RECORD
25 IN THE POSSESSION OF THE PHYSICIAN AND SHALL INCLUDE INFORMATION
26 CONCERNING:

27 (1) IDENTIFICATION OF THE PHYSICIAN WHO PERFORMED THE
28 ABORTION AND THE FACILITY WHERE THE ABORTION WAS PERFORMED
29 AND OF THE REFERRING PHYSICIAN, AGENCY OR SERVICE, IF ANY.

30 (2) THE POLITICAL SUBDIVISION AND STATE IN WHICH THE

1 WOMAN RESIDES.

2 (3) THE WOMAN'S AGE, RACE AND MARITAL STATUS.

3 (4) THE NUMBER OF PRIOR PREGNANCIES.

4 (5) THE DATE OF THE WOMAN'S LAST MENSTRUAL PERIOD AND
5 THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD.

6 (6) THE TYPE OF PROCEDURE PERFORMED OR PRESCRIBED AND
7 THE DATE OF THE ABORTION.

8 (7) COMPLICATIONS, IF ANY.

9 (8) THE INFORMATION REQUIRED TO BE REPORTED UNDER
10 SECTION 3211(C) (RELATING TO VIABILITY; PROFESSIONAL
11 STANDARDS).

12 (9) THE LENGTH AND WEIGHT OF THE ABORTED UNBORN CHILD
13 WHEN MEASURABLE.

14 (10) BASIS FOR ANY MEDICAL JUDGMENT THAT A MEDICAL
15 EMERGENCY EXISTED AS REQUIRED BY ANY PART OF THIS CHAPTER.

16 (11) THE BASIS FOR THE CLINICAL JUDGMENT THAT AN
17 ABORTION IS NECESSARY AS REQUIRED BY SECTION 3204(B)(2)
18 (RELATING TO MEDICAL CONSULTATION AND JUDGMENT)

19 (12) THE DATE OF THE MEDICAL CONSULTATION REQUIRED BY
20 SECTION 3204(B), THE TIME IT BEGAN AND THE TIME IT ENDED.

21 (13) THE DATE ON WHICH ANY DETERMINATION OF PREGNANCY
22 WAS MADE.

23 (14) THE INFORMATION REQUIRED TO BE REPORTED UNDER
24 SECTION 3210(B) (RELATING TO ABORTION AFTER VIABILITY).

25 (B) COMPLETION OF REPORT.--THE REPORTS SHALL BE COMPLETED BY
26 THE HOSPITAL OR OTHER LICENSED FACILITY, SIGNED BY THE PHYSICIAN
27 WHO PERFORMED THE ABORTION AND TRANSMITTED TO THE DEPARTMENT
28 WITHIN 15 DAYS AFTER EACH REPORTING MONTH.

29 (C) FORM.--THE DEPARTMENT SHALL PRESCRIBE A FORM ON WHICH
30 PATHOLOGISTS MAY REPORT ANY EVIDENCE OF LIVE BIRTH, VIABILITY OR

1 POSSIBLE VIABILITY UNDER SECTION 3211(C)(1) AND BY REGULATION
2 SHALL SET THE TIME WITHIN WHICH SUCH REPORTS SHALL BE REQUIRED.
3 WITHIN FIVE DAYS AFTER RECEIVING ANY SUCH REPORT, THE DEPARTMENT
4 SHALL TRANSMIT A COPY OF IT TO THE BOARD.

5 (D) PUBLIC INSPECTION OF REPORT.--WITHIN 15 DAYS AFTER
6 RECEIVING ANY REPORTS REQUIRED UNDER SUBSECTIONS (A) AND (B),
7 ALL SUCH REPORTS SHALL BE MADE AVAILABLE BY THE DEPARTMENT TO
8 THE PUBLIC FOR INSPECTION AND REPRODUCTION DURING NORMAL
9 BUSINESS HOURS AT ITS PRINCIPAL OFFICE AND COPIES OF ALL SUCH
10 REPORTS SHALL BE TRANSMITTED TO THE BOARD.

11 (E) REPORT BY FACILITY.--EVERY FACILITY IN WHICH AN ABORTION
12 IS PERFORMED WITHIN THIS COMMONWEALTH DURING ANY QUARTER YEAR
13 SHALL FILE WITH THE DEPARTMENT A REPORT SHOWING THE TOTAL NUMBER
14 OF ABORTIONS PERFORMED WITHIN THE HOSPITAL OR OTHER FACILITY
15 DURING THAT QUARTER YEAR. THIS REPORT SHALL ALSO SHOW THE TOTAL
16 ABORTIONS PERFORMED IN EACH TRIMESTER OF PREGNANCY. THESE
17 REPORTS SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND COPYING.

18 (F) REPORT OF MATERNAL DEATH.--AFTER 30 DAYS' PUBLIC NOTICE,
19 THE DEPARTMENT SHALL HENCEFORTH REQUIRE THAT ALL REPORTS OF
20 MATERNAL DEATHS ARISING FROM PREGNANCY, CHILDBIRTH OR
21 INTENTIONAL ABORTION IN EVERY CASE STATE THE CAUSE OF DEATH, THE
22 DURATION OF THE WOMAN'S PREGNANCY WHEN HER DEATH OCCURRED AND
23 WHETHER OR NOT THE WOMAN WAS UNDER THE CARE OF A PHYSICIAN PRIOR
24 TO HER DEATH AND SHALL ISSUE SUCH REGULATIONS AS ARE NECESSARY
25 TO ASSURE THAT SUCH DATA ARE REPORTED, CONDUCTING ITS OWN
26 INVESTIGATION IF NECESSARY IN ORDER TO ASCERTAIN SUCH DATA. A
27 WOMAN SHALL BE DEEMED TO HAVE BEEN UNDER THE CARE OF A PHYSICIAN
28 PRIOR TO HER DEATH FOR THE PURPOSE OF THIS CHAPTER WHEN SHE HAD
29 EITHER BEEN EXAMINED OR TREATED BY A PHYSICIAN, NOT INCLUDING
30 ANY EXAMINATION OR TREATMENT IN CONNECTION WITH EMERGENCY CARE

1 FOR COMPLICATIONS OF HER PREGNANCY OR COMPLICATIONS OF HER
2 ABORTION, PRECEDING THE WOMAN'S DEATH AT ANY TIME WHICH IS BOTH
3 21 OR MORE DAYS AFTER THE TIME SHE BECAME PREGNANT AND WITHIN 60
4 DAYS PRIOR TO HER DEATH. KNOWN INCIDENTS OF MATERNAL MORTALITY
5 OF NONRESIDENT WOMEN ARISING FROM INDUCED ABORTION PERFORMED IN
6 THIS COMMONWEALTH SHALL BE INCLUDED AS INCIDENTS OF MATERNAL
7 MORTALITY ARISING FROM INDUCED ABORTIONS. INCIDENTS OF MATERNAL
8 MORTALITY ARISING FROM CONTINUED PREGNANCY OR CHILDBIRTH AND
9 OCCURRING AFTER INDUCED ABORTION HAS BEEN ATTEMPTED BUT NOT
10 COMPLETED, INCLUDING DEATHS OCCURRING AFTER INDUCED ABORTION HAS
11 BEEN ATTEMPTED BUT NOT COMPLETED AS THE RESULT OF ECTOPIC
12 PREGNANCY, SHALL BE INCLUDED AS INCIDENTS OF MATERNAL MORTALITY
13 ARISING FROM INDUCED ABORTION. TO THE EXTENT THAT THE DATA
14 REQUIRED BY THIS SUBSECTION IS PRESENTLY AVAILABLE TO THE
15 DEPARTMENT FOR THE THREE MOST RECENTLY REPORTED YEARS, THE
16 DEPARTMENT SHALL REVISE ITS MATERNAL MORTALITY REPORTS FOR THESE
17 YEARS TO INCLUDE SUCH DATA. THE DEPARTMENT SHALL ANNUALLY REPORT
18 TO THE LEGISLATURE ALL STATISTICAL DATA GATHERED UNDER THIS
19 CHAPTER AND ITS RECOMMENDATIONS TO FURTHER THE PURPOSE OF THIS
20 CHAPTER.

21 (G) REPORT OF COMPLICATIONS.--EVERY PHYSICIAN AND EVERY
22 HEALTH CARE FACILITY THAT IS CALLED UPON TO PROVIDE MEDICAL CARE
23 OR TREATMENT TO A WOMAN WHO IS, OR IS THOUGHT TO BE, IN NEED OF
24 MEDICAL CARE BECAUSE OF A COMPLICATION OR COMPLICATIONS
25 RESULTING FROM HAVING AN ABORTION SHALL PREPARE A REPORT AND
26 FILE THE REPORT ON A QUARTERLY BASIS WITH THE DEPARTMENT WHICH
27 REPORT SHALL BE OPEN TO PUBLIC INSPECTION AND COPYING AND SHALL
28 BE ON FORMS PRESCRIBED BY THE DEPARTMENT, WHICH FORMS SHALL
29 CONTAIN THE FOLLOWING INFORMATION, AS RECEIVED, AND SUCH OTHER
30 INFORMATION EXCEPT THE NAME OF THE PATIENT AS THE DEPARTMENT MAY

1 FROM TIME TO TIME REQUIRE:

2 (1) AGE OF PATIENT.

3 (2) NUMBER OF PREGNANCIES PATIENT MAY HAVE HAD PRIOR TO
4 THE ABORTION.

5 (3) NUMBER AND TYPE OF ABORTIONS PATIENT MAY HAVE HAD
6 PRIOR TO THIS ABORTION.

7 (4) NAME AND ADDRESS OF THE FACILITY WHERE THE ABORTION
8 WAS PERFORMED.

9 (5) GESTATIONAL AGE OF THE FETUS AT THE TIME OF THE
10 ABORTION.

11 (6) TYPE OF ABORTION PERFORMED.

12 (7) NATURE OF COMPLICATION OR COMPLICATIONS.

13 (8) MEDICAL TREATMENT GIVEN.

14 (9) THE NATURE AND EXTENT OF ANY PERMANENT CONDITION
15 CAUSED BY THE COMPLICATION.

16 "COMPLICATION" INCLUDES, BUT IS NOT LIMITED TO, HEMORRHAGE,
17 INFECTION, UTERINE PERFORATION, CERVICAL LACERATION, RETAINED
18 PRODUCTS, RUBELLA DISEASE, HYDATID MOLE, ENDOCERVICAL POLYP AND
19 MALIGNANCIES. THE DEPARTMENT MAY FURTHER DEFINE COMPLICATION.

20 (H) PENALTIES.--

21 (1) ANY PERSON REQUIRED UNDER THIS SECTION TO FILE A
22 REPORT, KEEP ANY RECORDS OR SUPPLY ANY INFORMATION, WHO
23 WILLFULLY FAILS TO FILE SUCH REPORT, KEEPS SUCH RECORDS OR
24 SUPPLY SUCH INFORMATION AT THE TIME OR TIMES REQUIRED BY LAW
25 OR REGULATION COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

26 (2) ANY PERSON WHO WILLFULLY DELIVERS OR DISCLOSES TO
27 THE DEPARTMENT ANY REPORT, RECORD OR INFORMATION KNOWN BY HIM
28 TO BE FALSE COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

29 (3) ANY PERSON, ORGANIZATION OR FACILITY WHO VIOLATES
30 ANY OF THE PROVISIONS OF THIS SECTION REQUIRING REPORTING

1 SHALL UPON CONVICTION THEREOF:

2 (I) FOR THE FIRST TIME, HAVE ITS LICENSE SUSPENDED
3 FOR A PERIOD OF SIX MONTHS.

4 (II) FOR THE SECOND TIME, HAVE ITS LICENSE SUSPENDED
5 FOR A PERIOD OF ONE YEAR.

6 (III) FOR THE THIRD TIME, HAVE ITS LICENSE REVOKED.

7 § 3215. PUBLICLY OWNED FACILITIES; PUBLIC OFFICIALS AND PUBLIC
8 FUNDS.

9 (A) LIMITATIONS.--NO HOSPITAL, CLINIC OR OTHER HEALTH
10 FACILITY OWNED OR OPERATED BY THE COMMONWEALTH, A COUNTY, A CITY
11 OR OTHER GOVERNMENTAL ENTITY (EXCEPT THE GOVERNMENT OF THE
12 UNITED STATES, ANOTHER STATE OR A FOREIGN NATION) SHALL:

13 (1) PROVIDE, INDUCE, PERFORM OR PERMIT ITS FACILITIES TO
14 BE USED FOR THE PROVISION, INDUCEMENT OR PERFORMANCE OF ANY
15 ABORTION EXCEPT WHERE NECESSARY TO AVERT THE DEATH OF THE
16 WOMAN OR WHERE NECESSARY TO TERMINATE PREGNANCIES INITIATED
17 BY ACTS OF RAPE OR INCEST IF REPORTED IN ACCORDANCE WITH
18 REQUIREMENTS SET FORTH IN SUBSECTION (C).

19 (2) LEASE OR SELL OR PERMIT THE SUBLEASING OF ITS
20 FACILITIES OR PROPERTY TO ANY PHYSICIAN OR HEALTH FACILITY
21 FOR USE IN THE PROVISION, INDUCEMENT OR PERFORMANCE OF
22 ABORTION, EXCEPT ABORTION NECESSARY TO AVERT THE DEATH OF THE
23 WOMAN OR TO TERMINATE PREGNANCIES INITIATED BY ACTS OF RAPE
24 OR INCEST IF REPORTED IN ACCORDANCE WITH REQUIREMENTS SET
25 FORTH IN SUBSECTION (C).

26 (3) ENTER INTO ANY CONTRACT WITH ANY PHYSICIAN OR HEALTH
27 FACILITY UNDER THE TERMS OF WHICH SUCH PHYSICIAN OR HEALTH
28 FACILITY AGREES TO PROVIDE, INDUCE OR PERFORM ABORTIONS,
29 EXCEPT ABORTION NECESSARY TO AVERT THE DEATH OF THE WOMAN OR
30 TO TERMINATE PREGNANCIES INITIATED BY ACTS OF RAPE OR INCEST

1 IF REPORTED IN ACCORDANCE WITH REQUIREMENTS SET FORTH IN
2 SUBSECTION (C).

3 (B) PERMITTED TREATMENT.--NOTHING IN THIS SECTION SHALL BE
4 CONSTRUED TO PRECLUDE ANY HOSPITAL, CLINIC OR OTHER HEALTH
5 FACILITY FROM PROVIDING TREATMENT FOR POST-ABORTION
6 COMPLICATIONS.

7 (C) PUBLIC FUNDS.--NO COMMONWEALTH FUNDS AND NO FEDERAL
8 FUNDS WHICH ARE APPROPRIATED BY THE COMMONWEALTH SHALL BE
9 EXPENDED BY ANY STATE OR LOCAL GOVERNMENT AGENCY FOR THE
10 PERFORMANCE OF ABORTION, EXCEPT:

11 (1) WHEN ABORTION IS NECESSARY TO AVERT THE DEATH OF THE
12 MOTHER ON CERTIFICATION BY A PHYSICIAN. WHEN SUCH PHYSICIAN
13 WILL PERFORM THE ABORTION OR HAS A PECUNIARY OR PROPRIETARY
14 INTEREST IN THE ABORTION THERE SHALL BE A SEPARATE
15 CERTIFICATION FROM A PHYSICIAN WHO HAS NO SUCH INTEREST.

16 (2) WHEN ABORTION IS PERFORMED IN THE CASE OF PREGNANCY
17 CAUSED BY RAPE WHICH HAS BEEN REPORTED WITHIN 72 HOURS OF THE
18 RAPE TO A LAW ENFORCEMENT AGENCY HAVING JURISDICTION AND HAS
19 BEEN PERSONALLY REPORTED BY THE VICTIM OR HER AGENT.

20 (3) WHEN ABORTION IS PERFORMED IN THE CASE OF PREGNANCY
21 CAUSED BY INCEST WHICH HAS BEEN REPORTED WITHIN 72 HOURS FROM
22 DATE WHEN THE FEMALE FIRST LEARNS SHE IS PREGNANT AND SHE HAS
23 NAMED THE OTHER PARTY TO THE INCESTUOUS ACT. SUCH INFORMATION
24 SHALL BE TURNED OVER BY THE DEPARTMENT TO A LAW ENFORCEMENT
25 AGENCY.

26 (D) HEALTH PLANS.--NO HEALTH PLAN FOR EMPLOYEES, FUNDED WITH
27 ANY COMMONWEALTH FUNDS, SHALL INCLUDE COVERAGE FOR ABORTION,
28 EXCEPT UNDER THE SAME CONDITIONS AND REQUIREMENTS AS PROVIDED IN
29 SUBSECTION (C). THE PROHIBITION CONTAINED HEREIN SHALL NOT APPLY
30 TO HEALTH PLANS FOR WHICH ABORTION COVERAGE HAS BEEN EXPRESSLY

1 BARGAINED FOR IN ANY COLLECTIVE BARGAINING AGREEMENT PRESENTLY
2 IN EFFECT, BUT SHALL BE CONSTRUED TO PRECLUDE SUCH COVERAGE WITH
3 RESPECT TO ANY FUTURE AGREEMENT.

4 (E) INSURANCE POLICIES.--ALL HEALTH CARE AND DISABILITY
5 INSURANCE POLICIES WRITTEN OR MADE AVAILABLE IN THIS
6 COMMONWEALTH SHALL CONTAIN AN EXPRESS EXCLUSION OF COVERAGE FOR
7 ABORTION SERVICES NOT NECESSARY TO AVERT THE DEATH OF THE WOMAN
8 OR TO TERMINATE PREGNANCIES CAUSED BY RAPE OR INCEST. THE POLICY
9 MAY CONTAIN AN OPTION TO ELECT AN ENDORSEMENT OR RIDER PROVIDING
10 FOR ADDITIONAL ABORTION COVERAGE THROUGH A PREMIUM, SEPARATE AND
11 DISTINCT FROM THAT OF THE PRIMARY POLICY. WHEN A CLAIM IS FILED
12 IN THE CASE OF RAPE, THE INSURER SHALL REQUIRE A STATEMENT THAT
13 THE VICTIM REPORTED THE RAPE TO A LAW ENFORCEMENT AGENCY WITHIN
14 72 HOURS OF THE RAPE. WHEN A CLAIM IS FILED IN THE CASE OF
15 INCEST, THE INSURED MUST HAVE APPLIED FOR AN ABORTION WITHIN 72
16 HOURS AFTER FINDING SHE WAS PREGNANT AND MUST IDENTIFY THE OTHER
17 PARTY TO THE INCESTUOUS ACT AND THE INSURER SHALL, WITHIN 30
18 DAYS, REPORT THE INFORMATION REGARDING THE INCEST TO THE LAW
19 ENFORCEMENT AGENCY HAVING JURISDICTION AND ADVISE THE INSURED OF
20 THE REPORT.

21 (F) PUBLIC OFFICERS; ORDERING ABORTIONS.--EXCEPT IN THE CASE
22 OF A MEDICAL EMERGENCY, NO COURT, JUDGE, EXECUTIVE OFFICER,
23 ADMINISTRATIVE AGENCY OR PUBLIC EMPLOYEE OF THE COMMONWEALTH OR
24 OF ANY LOCAL GOVERNMENTAL BODY SHALL HAVE POWER TO ISSUE ANY
25 ORDER REQUIRING AN ABORTION WITHOUT THE EXPRESS VOLUNTARY
26 CONSENT OF THE WOMAN UPON WHOM THE ABORTION IS TO BE PERFORMED
27 OR SHALL COERCE ANY PERSON TO HAVE AN ABORTION.

28 (G) PUBLIC OFFICERS; LIMITING BENEFITS PROHIBITED.--NO
29 COURT, JUDGE, EXECUTIVE OFFICER, ADMINISTRATIVE AGENCY OR PUBLIC
30 EMPLOYEE OF THE COMMONWEALTH OR OF ANY LOCAL GOVERNMENTAL BODY

1 SHALL WITHHOLD, REDUCE OR SUSPEND OR THREATEN TO WITHHOLD,
2 REDUCE OR SUSPEND ANY BENEFITS TO WHICH A PERSON WOULD OTHERWISE
3 BE ENTITLED ON THE GROUND THAT SUCH PERSON CHOOSES NOT TO HAVE
4 AN ABORTION.

5 (H) PENALTY.--WHOEVER ORDERS AN ABORTION IN VIOLATION OF
6 SUBSECTION (F) OR WITHHOLDS, REDUCES OR SUSPENDS ANY BENEFITS OR
7 THREATENS TO WITHHOLD, REDUCE OR SUSPEND ANY BENEFITS IN
8 VIOLATION OF SUBSECTION (G) COMMITS A MISDEMEANOR OF THE FIRST
9 DEGREE.

10 § 3216. FETAL EXPERIMENTATION.

11 (A) UNBORN OR LIVE CHILD.--ANY PERSON WHO KNOWINGLY PERFORMS
12 ANY TYPE OF NONTHERAPEUTIC EXPERIMENTATION UPON ANY UNBORN
13 CHILD, OR UPON ANY CHILD BORN ALIVE DURING THE COURSE OF AN
14 ABORTION, COMMITS A FELONY OF THE THIRD DEGREE. "NONTHERAPEUTIC"
15 MEANS THAT WHICH IS NOT INTENDED TO PRESERVE THE CHILD'S LIFE OR
16 HEALTH.

17 (B) DEAD CHILD.--EXPERIMENTATION UPON CHILDREN WHO HAVE DIED
18 DURING THE COURSE OF AN ABORTION MAY BE CONDUCTED ONLY UPON THE
19 WRITTEN CONSENT OF THE MOTHER: PROVIDED, THAT NO CONSIDERATION
20 FOR SUCH CONSENT IS OFFERED OR GIVEN. ANY PERSON WHO KNOWINGLY
21 VIOLATES THIS SUBSECTION COMMITS A MISDEMEANOR OF THE FIRST
22 DEGREE.

23 § 3217. CIVIL PENALTIES.

24 ANY PHYSICIAN WHO KNOWINGLY VIOLATES ANY OF THE PROVISIONS OF
25 SECTION 3204 (RELATING TO MEDICAL CONSULTATION AND JUDGMENT) OR
26 3205 (RELATING TO INFORMED CONSENT) SHALL BE CIVILLY LIABLE TO
27 HIS PATIENT FOR ANY DAMAGES CAUSED THEREBY AND, IN ADDITION,
28 SHALL BE LIABLE TO HIS PATIENT FOR PUNITIVE DAMAGES IN THE
29 AMOUNT OF \$1,000.

30 § 3218. CRIMINAL PENALTIES.

1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, NO
2 CRIMINAL PENALTY SHALL APPLY TO A WOMAN WHO VIOLATES ANY
3 PROVISION OF THIS CHAPTER SOLELY IN ORDER TO PERFORM OR INDUCE
4 OR ATTEMPT TO PERFORM OR INDUCE AN ABORTION UPON HERSELF.

5 § 3219. CONSTRUCTION.

6 (A) REFERRAL TO CORONER.--THE PROVISIONS OF SECTION 503(3)
7 OF THE ACT OF JUNE 29, 1953 (P.L.304, NO.66), KNOWN AS THE
8 "VITAL STATISTICS LAW OF 1953," SHALL NOT BE CONSTRUED TO
9 REQUIRE REFERRAL TO THE CORONER OF CASES OF ABORTIONS PERFORMED
10 IN COMPLIANCE WITH THIS CHAPTER.

11 (B) OTHER LAWS UNAFFECTED.--APART FROM THE PROVISIONS OF
12 SUBSECTION (A) AND SECTION 3214 (RELATING TO REPORTING) NOTHING
13 IN THIS CHAPTER SHALL HAVE THE EFFECT OF MODIFYING OR REPEALING
14 ANY PART OF THE "VITAL STATISTICS LAW OF 1953" OR SECTION 5.2 OF
15 THE ACT OF OCTOBER 27, 1955 (P.L.744, NO.222), KNOWN AS THE
16 "PENNSYLVANIA HUMAN RELATIONS ACT."

17 § 7107. Tough guy competition.

18 (a) Offense defined.--A person commits a misdemeanor of the
19 first degree if he promotes, sponsors or participates in any
20 manner in the staging of, or the conduct of, any tough guy
21 contest or battle of the brawlers or in any similar competition.

22 (b) Exceptions.--This section shall not apply to news media
23 and publications.

24 (c) Definition.--As used in this section the phrase "tough
25 guy contest" or "battle of the brawlers" means any competition
26 which involves any physical contact bout between two or more
27 individuals, none of whom has had professional boxing or
28 wrestling experience nor has trained in the martial arts, who
29 attempt to knock out their opponent by employing boxing,
30 wrestling, martial arts tactics or any combination thereof and

1 by using techniques including, but not limited to, punches,
2 kicks and choking. These phrases shall not apply to amateur or
3 professional contests sanctioned by the Pennsylvania Athletic
4 Commission NOR TO CONTESTS STAGED IN CONNECTION WITH ATHLETIC <—
5 TRAINING PROGRAMS nor to amateur or professional contests of the
6 martial arts nor to any collegiate or scholastic boxing,
7 wrestling or martial arts contest.

8 SECTION 2. THE PROVISIONS OF THIS ACT AND 18 PA.C.S. CH. 32 <—
9 (RELATING TO ABORTION) SHALL BE SEVERABLE. IF ANY PROVISION OF
10 THIS ACT OR CHAPTER 32, OR THE APPLICATION THEREOF TO ANY PERSON
11 OR CIRCUMSTANCE, IS HELD INVALID, THE REMAINDER OF THIS ACT OR
12 CHAPTER, AND THE APPLICATION OF ANY PROVISION HEREOF TO ANY
13 OTHER PERSONS OR CIRCUMSTANCES, SHALL NOT BE AFFECTED THEREBY.

14 SECTION 3. (A) THE ACT OF SEPTEMBER 10, 1974 (P.L.639,
15 NO.209), KNOWN AS THE "ABORTION CONTROL ACT," IS REPEALED.

16 (B) ALL OTHER ACTS AND PARTS OF ACTS INCONSISTENT WITH 18
17 PA.C.S. CH. 32 (RELATING TO ABORTION) ARE HEREBY REPEALED.

18 Section ~~2~~ 4. This act shall take effect in 30 days. <—