

CHAPTER 29. MISCELLANEOUS HEALTH PROVISIONS

Subchap.	Sec.
A. CONFIDENTIAL INFORMATION IN THE ADMINISTRATION OF MATERNAL AND CHILD HEALTH	29.1
C. TESTING OF BLOOD SPECIMENS TAKEN FROM DEAD BODIES	29.21
D. AMBULATORY GYNECOLOGICAL SURGERY IN HOSPITALS AND CLINICS	29.31

Subchapter A. CONFIDENTIAL INFORMATION IN THE ADMINISTRATION OF MATERNAL AND CHILD HEALTH

- Sec.
- 29.1. Material considered confidential.
 - 29.2. Release of material considered confidential.
 - 29.3. Maintenance of confidential records.

Authority

The provisions of this Subchapter A issued under section 2101 of The Administrative Code of 1929 (71 P. S. § 531), unless otherwise noted.

Source

The provisions of this Subchapter A adopted October 30, 1959, unless otherwise noted.

Cross References

This chapter cited in 28 Pa. Code § 137.21 (relating to policies and procedures).

§ 29.1. Material considered confidential.

Except as otherwise provided in this subchapter, information as to personal facts and circumstances obtained in connection with the administration of maternal and child health and programs for crippled children, including child health centers, maternity clinics and clinics for crippled children conducted by the Department of Health shall be held confidential and be considered privileged communications, and may not be divulged without the consent of the individual or parent, except as may be necessary to provide services to individual mothers and children.

Source

The provisions of this § 29.1 adopted October 30, 1959.

Cross References

This section cited in 28 Pa. Code § 29.2 (relating to release of material considered confidential).

§ 29.2. Release of material considered confidential.

Section 29.1 (relating to material considered confidential) may not be construed to prohibit the following:

- (1) Disclosure of confidential information in summary, statistical or other forms which do not identify individuals.
- (2) Disclosure of confidential information to other agencies or persons, public or private, which are providing to individual mothers and children, needed services which are not available through Commonwealth programs, if in any such disclosure only information shall be released that is necessary to achieve the specific purposes for which the disclosure is authorized and the standards of protection established by the other agencies or persons to which the confidential information is made available are equal to those established by the Department.

Source

The provisions of this § 29.2 adopted October 30, 1959.

§ 29.3. Maintenance of confidential records.

Records and information made confidential shall be the property of the Department. The Department will establish procedures to insure the following:

- (1) Information procured by or made available to the Department staff, both professional and clerical, shall be used by such personnel only in accordance with this subchapter.
- (2) Employees of the Department and all other persons dealing with this agency in connection with these programs shall be informed of the policy concerning confidential information.

Subchapter C. TESTING OF BLOOD SPECIMENS TAKEN FROM DEAD BODIES

- Sec.
29.21. Collection of blood specimens.
29.22. Submission of blood specimens.

Authority

The provisions of this Subchapter C issued under the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3749, unless otherwise noted.

Source

The provisions of this Subchapter C adopted July 22, 1971, effective July 23, 1971, 1 Pa.B. 2163, unless otherwise noted.

§ 29.21. Collection of blood specimens.

(a) The coroner, deputy coroner, medical examiner, deputy medical examiner or his authorized agent shall collect or cause to be collected a specimen of blood from the body of an operator of a motor vehicle, or the body of a pedestrian over 16 years of age, who dies within 4 hours following a motor vehicle accident.

(b) Specimens shall be collected in the following manner and subject to the following conditions:

(1) Blood specimens shall be collected with equipment prescribed by the Department of Health.

(2) At least 10 milliliters of blood shall be taken from the heart, whenever possible. Otherwise, 10 milliliters of blood shall be taken from the femoral vein or other large blood vessel. Specimens shall be taken as soon as possible after death, and before the body is embalmed.

(3) Blood specimens may not be taken with embalming equipment. Alcohol or alcoholic antiseptics may not be used in a manner which may contaminate the specimen.

Notes of Decisions

Testimony in a wrongful death action that a specific blood test kit collecting postmortem blood samples is not the only reliable method, permitted the trier of fact to rely on the results of a blood sample procured by another equally reliable method. *Gallagher v. Ing*, 532 A.2d 1179 (Pa. Super. 1987); appeal denied 548 A.2d 255 (Pa. 1988).

§ 29.22. Submission of blood specimens.

(a) Blood specimens shall be mailed as soon as possible to the Department of Health or to another laboratory approved by the Department.

(b) Coroners, medical examiners or their authorized agents shall provide information which is requested by the Department of Health as pertains to any of the following:

(1) The identity, age, sex and race of the deceased, as well as whether the deceased was a driver or pedestrian.

(2) The circumstances of the accident with respect to location, date and time of the accident, and date and time of death.

(3) The circumstances surrounding the collection of the blood specimen with respect to the date and time the sample was taken.

**Subchapter D. AMBULATORY GYNECOLOGICAL SURGERY IN
HOSPITALS AND CLINICS**

Sec.	
29.31.	Definitions.
29.32.	Scope.
29.33.	Requirements for abortion.
29.34.	Abortions not permitted on an ambulatory basis.
29.35.	Abortion after viability.
29.36.	Medical consultation and judgment.
29.37.	Informed consent.
29.38.	Reports.
29.39.	Penalties.
29.40.	Prohibited acts.
29.41.	Fetal experimentation.
29.42.	Exceptions.
29.43.	Facility approval.

Authority

The provisions of this Subchapter D issued under the Abortion Control Act, 18 Pa.C.S. §§ 3201—3220, unless otherwise noted.

Source

The provisions of this Subchapter D amended through March 11, 1983, effective March 12, 1983, 13 Pa.B. 977, unless otherwise noted. Immediately preceding text appears at serial pages (32546) to (32548), (26049) to (26052) and (32551).

Cross References

This subchapter cited in 55 Pa. Code § 1163.62 (relating to payment conditions for abortions).

§ 29.31. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Abortion—The use of any means to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child except that, for the purposes of this chapter, abortion shall not mean the use of an intrauterine device or birth control pill to inhibit or prevent ovulations, fertilization, or the implantation of a fertilized ovum within the uterus.

Complication—Includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration, and retained products. The Department may further define complication.

Department—The Department of Health of the Commonwealth.

Facility or medical facility—Any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other

institution or location wherein medical care is provided to any person and which performs abortions on an elective basis.

First trimester—The first 12 weeks of gestation.

Freestanding facility (clinic)—A facility owned and operated by an individual, group of individuals, health agency, or corporation and meeting all recommendations specified in this subchapter except ownership and operation by a hospital.

Gestational age—What, in the judgment of the attending physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

Hospital—An institution offering inpatient services for medical, surgical, obstetrical, pediatric, and other care of persons as specified in Part IV, Subpart B (relating to general and special hospitals).

Hospital clinic—An outpatient clinic owned and operated by a licensed hospital and located either within or immediately adjacent to the hospital building, with appropriate equipment and adequate staff for safe abortions. The diagnostic and treatment services of the hospital required for management of any emergency must be readily accessible. The medical staff and practices of this type of facility shall be in compliance with Commonwealth hospital licensure requirements, and such other requirements as may be appropriate, such as the medical staff by-laws, rules and regulations, and other patient care policies adopted by the hospital. Physicians performing abortions in a hospital clinic should be either active members of the medical staff, or physicians employed by the hospital, whose credentials have been reviewed and approved by the Chairman, Department of Obstetrics and Gynecology, and the hospital Medical Staff Credentials Committee.

In vitro fertilization—The purposeful fertilization of a human ovum outside the body of a living human female.

Licensed practical nurse—A person licensed to practice practical nursing under the Practical Nurse Law (63 P. S. §§ 651—667).

Medical emergency—The condition which, on the basis of the physician's best clinical judgment, so complicates a pregnancy as to necessitate the immediate abortion of same to avert the death of the mother or for which a 24-hour delay will create grave peril of immediate and irreversible loss of major bodily function.

Medical personnel—Any nurse, nurse's aide, medical school student, health care professional, or any other person who furnishes or assists in the furnishing of medical care.

Physician—Any person licensed to practice medicine in this Commonwealth.

Pregnancy—That female reproduction condition caused by and commencing with fertilization.

Registered nurse—A person licensed to practice professional nursing under The Professional Nursing Law (63 P. S. §§ 211—225).

Surgical unit—A regularly staffed and equipped operating room with general anesthesia capability.

Unborn child—A human being from fertilization until birth and includes a fetus.

Viability—That stage of fetal development when, in the judgment of the physician based on the particular facts of the case before him and in light of the most advanced medical technology and information available to him, there is a reasonable likelihood of sustained survival of the unborn child outside the body of the mother, with or without artificial support.

§ 29.32. Scope.

This subchapter applies to the provision of an abortion in a medical facility.

§ 29.33. Requirements for abortion.

Every medical facility shall meet the following requirements with respect to the provision of abortions:

(1) Each medical facility shall have readily available equipment and drugs necessary for resuscitation. If local anesthesia is utilized to perform an abortion in a medical facility during the first trimester, then the following equipment shall be ready to use for resuscitative purposes:

- (i) Suction source.
- (ii) Oxygen source.
- (iii) Assorted size oral airways and endotracheal tubes.
- (iv) Laryngoscope.
- (v) Bag and mask and bag and endotracheal tube attachments for assisted ventilation.
- (vi) Intravenous fluids including blood volume expanders.
- (vii) Intravenous catheters and cut-down instrument tray.
- (viii) Emergency drugs for shock and metabolic imbalance.
- (ix) An individual to monitor respiratory rate, blood pressure and heart rate.

(2) In those situations where general anesthesia is utilized during the performance of an abortion, equipment ready to use for resuscitation shall be available as listed for local anesthesia and shall include, in addition, monitor defibrillator with electrocardiogram visual display of heart rate and rhythm.

(3) Abortions shall be performed only by a physician who possesses the requisite professional skill and competence as determined and approved by the medical facility in accordance with appropriate procedures.

(4) Each medical facility shall arrange for at least one physician who is board eligible by the American Board of Obstetrics and Gynecology or the American Osteopathic Board of Obstetrics and Gynecology to be available either as a staff member or as a consultant for the purpose of providing con-

sultation as needed and to advise staff members with respect to maintenance of a satisfactory quality of treatment.

(5) Prior to the performance of any abortion, appropriate methods shall be used to determine positive evidence of pregnancy by test result, history, and physical examination, or other reliable means; and such findings shall be entered in the medical record of the patient.

(6) Prior to the performance of an abortion, the attending physician shall insure that the patient has had tests for hemoglobin or hematocrit, blood group and RH type, and urine protein and sugar. All of the foregoing laboratory results shall be entered in the medical record of the patient.

(7) Rho (D)—immune globin (human) shall be administered to each Rh-negative patient at the time of any abortion, unless contraindicated. Evidence of compliance with this paragraph shall appear in the medical record of the patient. If for any reason the patient refuses the administration of Rh immune globulin when recommended, this refusal shall be noted in the clinical record of the patient.

(8) When there is an abortion performed during the first trimester of pregnancy, the tissue that is removed shall be subjected to a gross or microscopic examination, by the physician or a qualified person designated by the physician to determine if a pregnancy existed and was terminated. If the examination indicates no fetal remains, that information shall immediately be made known to the physician and sent to the Department within 15 days of the analysis. If the examination indicates no fetal remains or villi, the physician shall immediately inform the patient of the possibility of an ectopic pregnancy and shall recommend appropriate follow-up. When there is an abortion performed after the first trimester of pregnancy which the physician has determined as not viable, all such tissue removed at the time of the abortion shall be submitted for tissue analysis to a board eligible or certified pathologist. If the report reveals evidence of viability or live birth, the pathologist shall report such findings to the Department within 15 days and a copy of the report shall also be sent to the physician performing the abortion. The findings of the gross or microscopic examination shall be entered in the medical record of the patient. Each facility, including the hospital, shall provide treatment or referral for treatment of any diagnosed pathological condition.

(9) Each medical facility is encouraged to offer contraceptive services to patients. Both optional contraceptive counseling and supportive counseling, as needed by patients, shall be offered and made available on the premises or through referral.

(10) Each freestanding clinic shall have a written transfer agreement. The agreement shall be entered into with a hospital which is capable of providing routine emergency services as defined in this subchapter. For the purpose of this subchapter, routine emergency services will include but not be limited to the following:

(i) A physician at all times in the hospital available to provide emergency services.

(ii) Either full surgical or full obstetrical and gynecological surgical capability, including anesthesia, available for use within 30 minutes notice.

(iii) Blood bank, clinical laboratory and diagnostic radiological services for use within 30 minutes notice.

(A) This paragraph also applies to any hospital or part thereof which does not provide routine emergency services.

(B) In the case of a hospital satellite clinic, where the hospital does maintain an adequate emergency service on its main grounds, this paragraph will be deemed met if the hospital has and operates under policies and procedures which ensure transfer of patients with complications from the satellite clinic to such emergency services.

(C) The location of the hospital holding the agreement to supply emergency services shall not be farther than 30 minutes by ambulance from the clinic.

(11) When general anesthesia or major regional anesthesia blockade, including spinal or epidural anesthesia, is utilized, it shall be administered by a second physician, or a nurse anesthetist under appropriate supervision. Local anesthesia, including para-cervical block, may be administered by the physician performing the abortion.

(12) Each medical facility shall maintain a list of persons permitted to administer anesthesia under paragraph (11) and shall develop and maintain written policies governing the responsibilities of the persons and written procedures governing the administration of the anesthesia.

(13) Each patient shall be supervised constantly while recovering from surgery or anesthesia, until she is released from recovery by a registered nurse or a licensed practical nurse under the direction of a registered nurse or a physician. The nurse shall evaluate the condition of the patient and enter a report of the evaluation and orders in the medical record of the patient.

(14) Corridor doors, elevators, and other passages shall be adequate in size and arrangement to allow a stretcher-borne patient to be moved from each procedure room and recovery room to a street-level exit.

(15) All tissues obtained from abortions not subject to paragraph (8) shall be refrigerated, frozen, submersed in a proper preservative solution, and transported to a hospital, laboratory or incinerator on a regular basis for disposition.

Cross References

This section cited in 28 Pa. Code § 29.38 (relating to reports).

§ 29.34. Abortions not permitted on an ambulatory basis.

All abortions subsequent to the first trimester of pregnancy shall be performed, induced, and completed in a hospital which maintains an obstetrical service in accordance with Chapter 137 (relating to obstetrical services).

§ 29.35. Abortion after viability.

(a) Prior to performing any abortion upon a woman subsequent to her first trimester of pregnancy, the physician shall determine whether, in his good faith judgment, the child is viable. When a physician has determined that a child is viable, he shall report the basis for his determination that the abortion is necessary to preserve maternal life or health. When a physician has determined that a child is not viable, he shall report the basis for such determination.

(b) Every person who performs or induces an abortion after an unborn child has been determined to be viable shall exercise that degree of professional skill, care, and diligence which such person would be required to exercise in order to preserve the life and health of any unborn child intended to be born and not aborted; and the abortion technique employed shall be that which would provide the best opportunity for the unborn child to be aborted alive unless, in the good faith judgment of the physician, that method or technique would present a significantly greater medical risk to the life or health of the pregnant woman than would another available method or technique and the physician reports the basis for his judgment. The potential psychological or emotional impact on the mother of the unborn child's survival shall not be deemed a medical risk to the mother. Any person who intentionally, knowingly, or recklessly violates the provisions of this subsection commits a felony of the third degree.

(c) Any person who intends to perform an abortion the method chosen for which, in his good faith judgment, does not preclude the possibility of the child surviving the abortion, shall arrange for the attendance, in the same room in which the abortion is to be completed, of a second physician. Immediately after the complete expulsion or extraction of the child, the second physician shall take control of the child and shall provide immediate medical care for the child, taking all reasonable steps necessary, in his judgment, to preserve the child's life and health. Any person who intentionally, knowingly, or recklessly violates the provisions of this subsection commits a felony of the third degree.

(d) All physicians and medical personnel attending a child who is born alive during the course of an abortion or premature delivery or after being carried to term, shall provide such child that type and degree of care and treatment which, in the good faith judgment of the physician, is commonly and customarily provided to any other person under similar conditions and circumstances. Any individual who knowingly violates the provisions of this subsection commits a felony of the third degree.

Cross References

This section cited in 28 Pa. Code § 29.38 (relating to reports).

§ 29.36. Medical consultation and judgment.

(a) *Abortion prohibited; exceptions.* An abortion may not be performed except by a physician after either one of the following:

- (1) He determines that, in his best clinical judgment, the abortion is necessary.
- (2) He receives what he reasonably believes to be a written statement signed by another physician, hereinafter called the referring physician, certifying that in this referring physician's best clinical judgment the abortion is necessary.

(b) *Requirements.* Except in a medical emergency where there is insufficient time before the abortion is performed, the woman upon whom the abortion is to be performed shall have a private medical consultation either with the physician who is to perform the abortion or with the referring physician. The consultation will be in a place, at a time, and of a duration reasonably sufficient to enable the physician to determine whether, based on his best clinical judgment, the abortion is necessary.

(c) *Factors.* In determining in accordance with subsections (a) and (b) whether an abortion is necessary, a physician's best clinical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the woman.

Cross References

This section cited in 28 Pa. Code § 29.38 (relating to reports).

§ 29.37. Informed consent.

(a) *Rule.* No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced.

(b) *Consent.* Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

- (1) The woman is provided, at least 24 hours before the abortion, with the following information by the physician who is to perform the abortion or by the referring physician, but not by the agent or representative of either:
 - (i) The name of the physician who will perform the abortion.
 - (ii) The fact that there may be detrimental physical and psychological effects which are not accurately foreseeable.
 - (iii) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies and infertility.

- (iv) The probable gestational age of the unborn child at the time the abortion is to be performed.
- (v) The medical risks associated with carrying her child to term.
- (2) The woman is informed, by the physician or his agent, at least 24 hours before the abortion:
 - (i) That Medical Assistance benefits may be available for prenatal care, childbirth, and neonatal care provided that the woman is deemed to meet the eligibility criteria for such benefits as determined by the appropriate County Board of Assistance.
 - (ii) That the father may be held liable, through court action, to assist in the support of her child, even in instances where the father has offered to pay for the abortion.
 - (iii) That she has the right to review the printed materials provided by the Department to the physician or his agent who shall orally inform the woman that the materials describe the unborn child and list agencies which offer alternatives to abortion. If the woman chooses to view the materials, copies of them shall be furnished to her. If the woman is unable to read the materials furnished her, the materials shall be read to her. If the woman seeks answers to questions concerning any of the information or materials, answers shall be provided her in her own language.
- (3) The woman shall certify in writing, prior to the abortion, that the information described in paragraphs (1) and (2) has been furnished her and that she has been informed of her opportunity to review the information referred to in paragraph (2)(iii).
- (4) Prior to the performance of the abortion, the physician who is to perform or induce the abortion or his agent shall receive a copy of the written certification prescribed by paragraph (3).
- (c) *Emergency.* Where a medical emergency compels the performance of an abortion, the physician shall inform the woman, prior to the abortion if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death, or for which a 24-hour delay will create grave peril of immediate and irreversible loss of major bodily function.
- (d) *Parental consent.*
 - (1) Except in the case of a medical emergency, except as provided in this section, if a pregnant woman is less than 18 years of age and not emancipated or if she has been adjudged an incompetent under 20 Pa.C.S. § 5511 (relating to petition and hearing; examination by court-appointed physician), a physician shall not perform an abortion upon her unless, in the case of a woman who is less than 18 years of age, he first obtains the consent both of the pregnant woman and of one of her parents or, in the case of a woman who is incompetent, he first obtains the consent of her guardian. In deciding whether to grant such consent, a pregnant woman's parent or guardian shall consider only the child's or ward's best interests. In obtaining the consent of the woman's parent

or guardian, the physician shall provide them the information and materials specified in this section and shall further obtain from them the certification required by subsection (b)(3). In the case of a pregnancy that is the result of incest where the father is a party to the incestuous act, the pregnant woman need only obtain the consent of her mother.

(2) If both parents have died or are otherwise unavailable to the physician within a reasonable time and in a reasonable manner, consent of the pregnant woman's guardian or guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent having custody shall be sufficient. If neither any parent nor a legal guardian is available to the physician within a reasonable time and in a reasonable manner, consent of any adult person standing in loco parentis shall be sufficient.

(3) If both of the parents or guardians of the pregnant woman refuse to consent to the performance of an abortion or if she elects not to seek the consent of either of her parents or of her guardian, a petition to court for consent may be made in accordance with the Abortion Control Act, 18 Pa.C.S. Chapter 32.

§ 29.38. Reports.

(a) The following information is to be sent to the Department according to the specified time frames on forms prescribed by it:

(1) *Facility information.*

(i) Within 30 days of the effective date of this subchapter, every facility at which abortions are performed shall file, and update immediately upon any change, a report with the Department, which shall be open to public inspection and copying, containing the following information:

(A) Name, mailing address, and county of location of the facility.

(B) Name and address of any parent, subsidiary or affiliated organizations, corporations, or associations.

(C) Name and address of any parent, subsidiary or affiliated organizations, corporations or associations having contemporaneous commonality of ownership, beneficial interest, directorship or officership with any other facility.

(D) Date form submitted.

(ii) Any facility failing to comply with this paragraph will be assessed by the Department a fine of \$500 for each day it is in violation hereof.

(2) *In vitro fertilization.* All persons conducting or experimenting in in vitro fertilization shall file quarterly reports with the Department, which will be available for public inspection and copying, containing the following information:

(i) Names of all persons conducting or assisting in the fertilization or experimentation process.

(ii) Locations—including mailing address and county—where the fertilization or experimentation is conducted.

(iii) Name and address of any person, facility, agency or organization sponsoring the fertilization or experimentation, except that names of any persons who are donors or recipients of sperm or eggs shall not be disclosed.

(iv) Number of eggs fertilized.

(v) Number of fertilized eggs destroyed or discarded.

(vi) Number of women implanted with a fertilized egg.

(vii) Date form submitted.

(3) *Abortion report.* A report of each abortion performed shall be made to the Department on forms prescribed by it. The reports shall be completed by the hospital or other licensed facility, signed by the physician who performed the abortion, and transmitted to the Department within 15 days after each reporting month. The report forms shall not identify the individual patient by name and shall include the following information:

(i) Name and license number of the physician who performed the abortion.

(ii) Name of the facility where the abortion was performed, county code, and facility identification number.

(iii) Name and license number of referring physician, agency or service, if any.

(iv) The political subdivision, including county and city, township, or borough and state, in which the woman resides.

(v) The woman's age, race, education and marital status.

(vi) The number of prior pregnancies, including the number of live births, now living and now dead, and the number of abortions, spontaneous and induced.

(vii) The date of the woman's last menstrual period and the probable gestational age of the unborn child.

(viii) The types of procedures performed or prescribed and the date of the abortion.

(ix) Complications, if any, including but not limited to, hemorrhage, infection, uterine perforation, cervical laceration, retained products, psychological complications, failure to abort and death.

(x) Concurrent conditions, if any, including but not limited to hydatid mole, endocervical polyp, malignancies, radiation exposure, genetic indications, psychological indications, rape, incest and rubella disease.

(xi) Physician's determination of viability.

(xii) The length and weight of the aborted unborn child when measurable.

(xiii) Basis for any medical judgment that a medical emergency exists as required by any part of this chapter.

(xiv) The date of the medical consultation required by § 29.36 (relating to medical consultation and judgment).

(xv) The date on which any determination of pregnancy was made.

(xvi) The information required to be reported under § 29.35(a) (relating to abortion after viability).

(xvii) Whether or not the expelled products were examined by a pathologist or other designated qualified person.

(xviii) Whether the abortion was paid for by the patient, by Medical Assistance, by medical insurance coverage, or by other method of payment.

(xix) Date form submitted.

(4) *Pathological examinations.* Reports of pathological examinations and findings as required by § 29.33(8) (relating to requirements for abortion) shall be forwarded to the Department on forms prescribed by it, containing the following information:

(i) Name, title and license number, if applicable, of person performing examination.

(ii) Name and mailing address of facility where examination was performed.

(iii) Date of examination and date of abortion.

(iv) Examination findings, including absence of pregnancy, live birth, viability, and other findings, and evidence of these findings.

(v) Name and license number of physician who performed the abortion.

(vi) Date form submitted.

(5) *Report by facility.* Every facility in which an abortion is performed within this Commonwealth during any calendar quarter shall file with the Department on forms prescribed by it, a report showing the total number of abortions performed within the medical facility during that calendar quarter and the total abortions performed in each trimester of pregnancy. Such reports are due within 30 days of the end of each quarter. These reports shall be available for public inspection and copying and shall contain the following information:

(i) Name, mailing address and county of location of the facility.

(ii) The total number of abortions performed in the facility and the number performed in the first, second and third trimesters of pregnancy during the reporting period.

(iii) Date form submitted.

(6) *Report of maternal death.* All reports of maternal deaths occurring within this Commonwealth arising from pregnancy, childbirth or intentional abortion shall be reported to the Department and shall in every case state the cause of death, the duration of the woman's pregnancy when her death occurred, and whether or not the woman was under the care of a physician during her pregnancy prior to her death. A woman shall be deemed to have been under the care of a physician prior to her death for the purpose of this chapter when she had either been examined or treated by a physician, not

including any examination or treatment in connection with emergency care for complications of her pregnancy or complications of her abortion, preceding the woman's death at any time which is both 21 or more days after the time she became pregnant and within 60 days prior to her death. Known incidents of maternal mortality of nonresident women arising from induced abortion performed in this Commonwealth shall be included as incidents of maternal mortality arising from induced abortions. Incidents of maternal mortality arising from continued pregnancy or childbirth and occurring after induced abortion has been attempted but not completed, including deaths occurring after induced abortion has been attempted but not completed as the result of ectopic pregnancy, shall be included as incidents of maternal mortality. The report form shall include the following information:

- (i) Name of deceased.
- (ii) Date of death of deceased.
- (iii) Date of birth of deceased.
- (iv) Race of deceased.
- (v) Location of death, including name of medical facility, street address, city, borough or township, and county.
- (vi) Residence of deceased, including state, county, and city, borough, or township.
- (vii) Cause of death, including immediate and underlying causes, interval between onset and death, and other significant conditions.
- (viii) Physician's estimate of length of gestation.
- (ix) Date of disposition and disposition of pregnancy.
- (x) Whether the woman was under the care of a physician at any time both 21 or more days after the time she became pregnant and within 60 days prior to her death.
- (xi) Name and license number of physician certifying death and completing this form.
- (xii) Date form submitted.

(7) *Report of complications.* Every physician who is called upon to provide medical care or treatment to a woman who is in need of medical care because of a complication or complications resulting, in the good faith judgment of the physician, from having undergone an abortion or attempted abortion, shall prepare a report thereof and file the report with the Department within 30 days of the date of his first examination of the woman. This report shall be open to public inspection and copying and shall be on forms prescribed by the Department. The forms shall contain the following information, and such other information except the name of the patient, as the Department may from time to time require:

- (i) Age of patient.

- (ii) Number of pregnancies patient may have had prior to the abortion, including the number of live births, now living and now dead, and abortions, spontaneous and induced.
 - (iii) Number and type of abortions patient may have had prior to this abortion.
 - (iv) Name and address of the facility where the abortion was performed.
 - (v) Gestational age of the unborn child at the time of the abortion, if known.
 - (vi) Type of abortion performed and date, if known.
 - (vii) Nature of complication.
 - (viii) Medical treatment given.
 - (ix) The nature and extent, if known, of any permanent condition caused by the complication.
 - (x) Date of first examination of patient.
 - (xi) Name and license number of attending physician.
 - (xii) Date form submitted.
- (b) The Department may require other pertinent information to be submitted at any time as it deems appropriate.
- (c) Reports filed under subsection (a)(3) will not be deemed public records within the meaning of that term as defined by the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4) referred to as the Right-to-Know Law, but will be made available for public inspection and copying within 15 days of receipt in a form which will not lead to the disclosure of the identity of any person filing a report. On those reports available for public inspection and copying, the Department will substitute for the name and license number of any physician which appears on the report, a unique identifying number. The identity of the physician will constitute a confidential record of the Department. The Department may set a reasonable per copy fee to cover the cost of making any copies authorized under this section.

Cross References

This section cited in 28 Pa. Code § 29.39 (relating to penalties).

§ 29.39. Penalties.

- (a) Any person who willfully delivers or discloses to the Department any report, record or information known by him to be false commits a misdemeanor of the first degree.
- (b) In addition to the provisions of subsection (a), any person, organization or facility who willfully violates § 29.38 (relating to reports) shall upon conviction thereof:
- (1) For the first time, have its license suspended for a period of 6 months.
 - (2) For the second time, have its license suspended for a period of 1 year.
 - (3) For the third time, have its license revoked.

§ 29.40. Prohibited acts.

(a) *Payment for abortion.* Except in the case of a pregnancy which is not yet clinically diagnosable, any person who intends to perform or induce abortion shall, before accepting payment therefor, make or obtain a determination that the woman is pregnant. Any person who intentionally or knowingly accepts such a payment without first making or obtaining such a determination commits a misdemeanor of the second degree. A person commits a misdemeanor of the second degree if such person makes such a determination erroneously either knowing that it is erroneous or with reckless disregard or negligence as to whether it is erroneous and either:

(1) Thereupon or thereafter intentionally relies upon that determination in soliciting or obtaining any such payment; or

(2) Intentionally conveys that determination to any person or with knowledge that or with reckless disregard as to whether that determination will be relied upon in any solicitation or obtaining of any such payment.

(b) *Referral fee.* Payment or receipt of a referral fee in connection with the performance of an abortion is a misdemeanor of the first degree. For purposes of this section, "referral fee" means the transfer of anything of value between a physician who performs an abortion or an operator or employe of a clinic at which an abortion is performed and the person who advised the woman receiving the abortion to use the services of that physician or clinic.

§ 29.41. Fetal experimentation.

(a) *Unborn or live child.* Any person who knowingly performs any type of nontherapeutic experimentation upon any unborn child or upon any child born alive during the course of an abortion commits a felony of the third degree. "Nontherapeutic" means that which is not intended to preserve the child's life or health.

(b) *Dead child.* Experimentation upon children who have died during the course of an abortion may be conducted only upon the written consent of the mother provided that no consideration for such consent is offered or given. Any person who knowingly violates this section commits a misdemeanor of the first degree.

§ 29.42. Exceptions.

The Department may grant an exception to any of the requirements of this subchapter for good cause shown, excepting statutory requirements.

§ 29.43. Facility approval.

(a) Every medical facility which performs abortions within this Commonwealth shall be approved by the Department.

(b) All medical facilities except hospitals may become approved facilities upon submission of an application to the Department from a person authorized to represent such facility and, at the discretion of the Department, satisfactory completion of an onsite survey.

(c) Every hospital licensed or approved by the Department, which has filed with the Department the Abortion Facility Registration form, and which meets the standards set forth in this title, will be deemed to be an approved facility by virtue of its hospital license or approval, unless it has a stated ethical policy to the contrary promulgated in accordance with section 5.2 of the Pennsylvania Human Relations Act (43 P. S. § 955.2) and 16 Pa. Code Part II Subpart A (relating to Human Relations Commission).

(d) Notwithstanding this section, facility approval for performance of abortions may be revoked if this subchapter is not adhered to.

[Next page is 30-1.]