

HOUSE BILL 1360

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By: **Delegates Cox, Boteler, and McComas**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Abortion–Inducing Drugs**

3 FOR the purpose of providing for the circumstances under and the manner in which a
4 person may provide an abortion–inducing drug to a pregnant woman; establishing
5 reporting requirements related to the use of abortion–inducing drugs in the State;
6 requiring the Maryland Department of Health to develop a certain form and publish
7 certain information on the use of abortion–inducing drugs in the State; providing for
8 the manner in which a civil action or disciplinary action may be brought under this
9 Act; authorizing certain State representatives to participate in certain legal actions
10 in a certain manner; and generally relating to the use of abortion–inducing drugs.

11 BY adding to

12 Article – Health – General

13 Section 20–201 through 20–206.1 to be under the new part “Part I.
14 Abortion–Inducing Drugs”

15 Annotated Code of Maryland

16 (2019 Replacement Volume and 2021 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Health – General

19 Section 20–208 and 20–209

20 Annotated Code of Maryland

21 (2019 Replacement Volume and 2021 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Health – General**

25 **PART I. ABORTION–INDUCING DRUGS.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **20-201.**

2 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) (1) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING AN
5 INSTRUMENT, A MEDICINE, A DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR MEANS
6 WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE PREGNANCY OF A
7 WOMAN, WITH KNOWLEDGE THAT THE TERMINATION BY THOSE MEANS WILL WITH
8 REASONABLE LIKELIHOOD CAUSE THE DEATH OF THE UNBORN CHILD.

9 (2) "ABORTION" DOES NOT INCLUDE THE USE OF AN INSTRUMENT, A
10 MEDICINE, A DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR MEANS WITH THE
11 INTENT TO:

12 (I) SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN
13 CHILD;

14 (II) REMOVE A DEAD UNBORN CHILD CAUSED BY SPONTANEOUS
15 ABORTION;

16 (III) REMOVE AN ECTOPIC PREGNANCY; OR

17 (IV) TREAT A MATERNAL DISEASE OR ILLNESS FOR WHICH THE
18 PRESCRIBED DRUG IS INDICATED.

19 (C) (1) "ABORTION-INDUCING DRUG" MEANS A MEDICINE, DRUG, OR ANY
20 OTHER SUBSTANCE PRESCRIBED OR DISPENSED WITH THE INTENT OF
21 TERMINATING THE CLINICALLY DIAGNOSABLE PREGNANCY OF A WOMAN, WITH
22 KNOWLEDGE THAT THE TERMINATION WILL WITH REASONABLE LIKELIHOOD CAUSE
23 THE DEATH OF THE UNBORN CHILD.

24 (2) "ABORTION-INDUCING DRUG" INCLUDES A DRUG, THE
25 OFF-LABEL USE OF WHICH IS KNOWN TO HAVE ABORTION-INDUCING PROPERTIES
26 AND THAT IS PRESCRIBED SPECIFICALLY WITH THE INTENT OF CAUSING AN
27 ABORTION, INCLUDING MIFEPRISTONE (MIFEPREX), MISOPROSTOL (CYTOTEC),
28 AND METHOTREXATE.

29 (3) "ABORTION-INDUCING DRUG" DOES NOT INCLUDE A DRUG THAT
30 MAY BE KNOWN TO CAUSE AN ABORTION BUT THAT IS PRESCRIBED FOR OTHER
31 MEDICAL INDICATIONS, INCLUDING CHEMOTHERAPEUTIC AGENTS AND DIAGNOSTIC
32 DRUGS.

(D) (1) “ADVERSE EVENT” MEANS AN UNTOWARD MEDICAL OCCURRENCE ASSOCIATED WITH THE USE OF A DRUG IN HUMANS, WHETHER OR NOT CONSIDERED DRUG-RELATED.

(2) “ADVERSE EVENT” DOES NOT INCLUDE AN EVENT OR SUSPECTED REACTION THAT, HAD IT OCCURRED IN A MORE SEVERE FORM, MIGHT HAVE CAUSED DEATH.

(E) “ASSOCIATED PHYSICIAN” MEANS AN INDIVIDUAL LICENSED TO PRACTICE MEDICINE IN THE STATE, INCLUDING A MEDICAL DOCTOR AND DOCTOR OF OSTEOPATHY, WHO HAS ENTERED INTO AN AGREEMENT WITH A QUALIFIED PHYSICIAN TO PROVIDE MEDICAL CARE AND TREATMENT IN THE EVENT OF COMPLICATIONS ASSOCIATED WITH THE QUALIFIED PHYSICIAN PROVIDING AN ABORTION-INDUCING DRUG REGIMEN.

(F) “COMPLICATION” OR “ABORTION COMPLICATION” MEANS ONLY THE FOLLOWING PHYSICAL OR PSYCHOLOGICAL CONDITIONS THAT, IN THE REASONABLE MEDICAL JUDGMENT OF A LICENSED HEALTH CARE PROFESSIONAL, ARISE AS A PRIMARY OR SECONDARY RESULT OF AN INDUCED ABORTION:

(1) UTERINE PERFORATION;

(2) CERVICAL LACERATION;

(3) INFECTION;

(4) BLEEDING;

(5) VAGINAL BLEEDING THAT QUALIFIES AS A GRADE 2 OR HIGHER ADVERSE EVENT ACCORDING TO THE COMMON TERMINOLOGY CRITERIA FOR ADVERSE EVENTS (CTCAE);

(6) PULMONARY EMBOLISM;

(7) DEEP VEIN THROMBOSIS;

(8) FAILURE TO ACTUALLY TERMINATE THE PREGNANCY;

(9) INCOMPLETE ABORTION (RETAINED TISSUE);

(10) PELVIC INFLAMMATORY DISEASE;

(11) ENDOMETRITIS;

(12) MISSED ECTOPIC PREGNANCY;

(13) CARDIAC ARREST;

(14) RESPIRATORY ARREST;

(15) RENAL FAILURE;

(16) SHOCK;

(17) AMNIOTIC FLUID EMBOLISM;

(18) COMA;

(19) FREE FLUID IN THE ABDOMEN;

(20) ALLERGIC REACTIONS TO ANESTHESIA AND
ABORTION-INDUCING DRUGS;

(21) PSYCHOLOGICAL COMPLICATIONS, AS DIAGNOSED IN
ACCORDANCE WITH THE CURRENT DIAGNOSTIC AND STATISTICAL MANUAL (DSM);
AND

(22) ANY RELATED COMPLICATION ARISING UNDER THE FOLLOWING
ICD-10 CODES:

(I) O04.2;

(II) O04.5;

(III) O04.6;

(IV) O04.7;

(V) O04.80;

(VI) O04.81;

(VII) O04.82;

(VIII) O04.84;

(IX) O04.86;

(X) O04.87;

(XI) O04.88;

(XII) O07.0;

(XIII) O07.1;

(XIV) O07.2;

(XV) O07.34;

(XVI) O07.38; AND

(XVII) P04.88.

(G) “FACILITY” MEANS AN INSTITUTION OR A LOCATION OR BUSINESS WITHIN WHICH MEDICAL CARE OR PHARMACEUTICALS ARE PROVIDED TO AN INDIVIDUAL, INCLUDING A HOSPITAL, A CLINIC, A CENTER, A MEDICAL SCHOOL, A MEDICAL TRAINING INSTITUTION, A HEALTH CARE BUSINESS, A PHYSICIAN’S OFFICE, AN INFIRMARY, A DISPENSARY, OR AN AMBULATORY SURGICAL CENTER.

(H) “HOSPITAL” HAS THE MEANING STATED IN § 19–301 OF THIS ARTICLE.

(I) “LMP” OR “GESTATIONAL AGE” MEANS THE TIME THAT HAS ELAPSED SINCE THE FIRST DAY OF THE WOMAN’S LAST MENSTRUAL PERIOD.

(J) “PHYSICIAN” MEANS AN INDIVIDUAL LICENSED TO PRACTICE MEDICINE IN THE STATE, INCLUDING A MEDICAL DOCTOR AND A DOCTOR OF OSTEOPATHY.

(K) “PREGNANT” OR “PREGNANCY” MEANS THE FEMALE REPRODUCTIVE CONDITION OF HAVING AN UNBORN CHILD IN THE UTERUS.

(L) “PROVIDE” MEANS, WHEN USED REGARDING ABORTION–INDUCING DRUGS, AN ACT OF GIVING, SELLING, DISPENSING, ADMINISTERING, TRANSFERRING POSSESSION TO, OR OTHERWISE PROVIDING OR PRESCRIBING AN ABORTION–INDUCING DRUG.

(M) “QUALIFIED PHYSICIAN” MEANS A PHYSICIAN WHO HAS THE ABILITY TO:

1 (1) IDENTIFY AND DOCUMENT A VIABLE INTRAUTERINE PREGNANCY;

2 (2) ASSESS THE GESTATIONAL AGE OF PREGNANCY AND INFORM THE
3 PATIENT OF GESTATIONAL AGE–SPECIFIC RISKS;

4 (3) DIAGNOSE ECTOPIC PREGNANCY;

5 (4) DETERMINE BLOOD TYPE AND ADMINISTER RHO GAM IF A
6 WOMAN IS RH NEGATIVE;

7 (5) ASSESS AN INDIVIDUAL FOR SIGNS OF DOMESTIC ABUSE,
8 REPRODUCTIVE CONTROL, HUMAN TRAFFICKING, AND OTHER SIGNALS OF
9 COERCED ABORTION;

10 (6) PROVIDE SURGICAL INTERVENTION OR CONTRACT WITH
11 ANOTHER QUALIFIED PHYSICIAN TO PROVIDE SURGICAL INTERVENTION; AND

12 (7) SUPERVISE AND BEAR LEGAL RESPONSIBILITY FOR ANY AGENT,
13 EMPLOYEE, OR CONTRACTOR WHO IS PARTICIPATING IN ANY PART OF A
14 PROCEDURE, INCLUDING PRE–PROCEDURE EVALUATION AND CARE.

15 (N) “UNBORN CHILD” MEANS AN INDIVIDUAL ORGANISM OF THE SPECIES
16 HOMO SAPIENS, BEGINNING AT FERTILIZATION, UNTIL THE POINT OF BEING
17 BORN ALIVE AS DEFINED IN 1 U.S.C. § 8(B).

18 20–202.

19 (A) THE GENERAL ASSEMBLY FINDS THAT:

20 (1) IN SEPTEMBER 2000, THE FOOD AND DRUG ADMINISTRATION
21 (FDA) APPROVED THE DISTRIBUTION AND USE OF MIFEPRISTONE (BRAND NAME
22 MIFEPREX), ORIGINALLY REFERRED TO AS “RU–486”, AN ABORTION–INDUCING
23 DRUG, UNDER THE AUTHORITY OF 21 C.F.R. § 314.520, ALSO REFERRED TO AS
24 “SUBPART H”, WHICH IS THE ONLY FDA APPROVAL PROCESS THAT ALLOWS FOR
25 POSTMARKETING RESTRICTIONS AND PROVIDES FOR ACCELERATED APPROVAL OF
26 SPECIFIED DRUGS THAT ARE SHOWN TO BE EFFECTIVE BUT “CAN BE SAFELY USED
27 ONLY IF DISTRIBUTION OR USE IS RESTRICTED”;

28 (2) THE FDA DOES NOT TREAT SUBPART H DRUGS IN THE SAME
29 MANNER AS DRUGS THAT UNDERGO THE TYPICAL APPROVAL PROCESS, GIVING
30 THEM HEIGHTENED SCRUTINY AFTER APPROVAL;

1 **(3) IN SEPTEMBER 2000, THE FDA PRESCRIBED A SPECIFIC**
2 **GESTATION (49 DAYS LMP), DOSAGE, AND ADMINISTRATION PROTOCOL FOR**
3 **MIFEPREX/MIFEPRISTONE;**

4 **(4) THE APPROVED FDA PROTOCOL FOR MIFEPREX/MIFEPRISTONE**
5 **WAS MODIFIED IN MARCH 2016 AND DECEMBER 2021, HOWEVER, THE NEW FDA**
6 **GUIDELINES MAINTAIN THAT CERTAIN DISTRIBUTION RESTRICTIONS ARE STILL**
7 **NECESSARY BECAUSE OF THE DRUG'S POTENTIAL FOR SERIOUS COMPLICATIONS;**

8 **(5) AS APPROVED BY THE FDA, THE 2016 ADMINISTRATION**
9 **PROTOCOL CONSISTS OF ONE 200 MG TABLET IN A SINGLE ORAL DOSE OF**
10 **MIFEPREX/MIFEPRISTONE, FOLLOWED BY FOUR 200 MCG TABLETS OF**
11 **MISOPROSTOL TAKEN 24 TO 48 HOURS LATER BUCCALLY, IN THE CHEEK POUCH,**
12 **THROUGH 70 DAYS LMP AND THE PATIENT IS REQUIRED TO RETURN FOR A**
13 **FOLLOW-UP VISIT TO CONFIRM THAT A COMPLETE ABORTION HAS OCCURRED 7 TO**
14 **14 DAYS AFTER ADMINISTRATION OF THE ABORTION-INDUCING DRUG;**

15 **(6) THE 2016 FDA PROTOCOL ALSO REQUIRES THAT THE**
16 **DISTRIBUTION AND USE OF MIFEPREX/MIFEPRISTONE BE UNDER THE SUPERVISION**
17 **OF A QUALIFIED HEALTH CARE PROVIDER WHO HAS THE ABILITY TO ASSESS THE**
18 **DURATION OF PREGNANCY, DIAGNOSE ECTOPIC PREGNANCY, AND PROVIDE**
19 **SURGICAL INTERVENTION OR HAS MADE PLANS TO PROVIDE SURGICAL**
20 **INTERVENTION THROUGH ANOTHER QUALIFIED PHYSICIAN;**

21 **(7) ON DECEMBER 16, 2021, THE FDA ANNOUNCED THAT IT WOULD**
22 **NO LONGER REQUIRE AN IN-PERSON MEDICAL EXAMINATION AND ALLOW THE**
23 **DRUGS TO BE MAILED TO THE PATIENT, MEANING THAT FOR THE FIRST TIME,**
24 **PHARMACIES MAY FILL PRESCRIPTIONS FOR ABORTION-INDUCING DRUGS IF THEY**
25 **ARE CERTIFIED TO DO SO;**

26 **(8) THE USE OF MIFEPREX/MIFEPRISTONE PRESENTS SIGNIFICANT**
27 **MEDICAL RISKS, INCLUDING UTERINE HEMORRHAGE, VIRAL INFECTIONS,**
28 **ABDOMINAL PAIN, CRAMPING, VOMITING, HEADACHE, FATIGUE, AND PELVIC**
29 **INFLAMMATORY DISEASE;**

30 **(9) IT IS CRITICAL FOR A QUALIFIED PHYSICIAN TO DETERMINE**
31 **BLOOD TYPE AND ADMINISTER RH IMMUNOGLOBULIN IF A WOMAN IS RH NEGATIVE**
32 **BECAUSE IF THE WOMAN IS RH NEGATIVE AND DOES NOT RECEIVE AN INJECTION OF**
33 **RH IMMUNOGLOBULIN AT THE TIME OF THE ABORTION, SHE MAY EXPERIENCE RH**
34 **INCOMPATIBILITY IN FUTURE PREGNANCIES THAT CAN LEAD TO COMPLICATIONS**
35 **AND MISCARRIAGE;**

(10) THE RISK OF COMPLICATIONS INCREASES WITH ADVANCING GESTATIONAL AGE AND WITH THE FAILURE TO EITHER COMPLETE THE TWO-STEP DOSAGE PROCESS FOR THE MIFEPREX/MIFEPRISTONE REGIMEN OR TO RECEIVE ABORTION PILL REVERSAL CARE FROM A QUALIFIED HEALTH CARE PROFESSIONAL;

(11) STUDIES DOCUMENT THAT INCREASED RATES OF COMPLICATIONS, INCLUDING INCOMPLETE ABORTION, OCCUR EVEN WITHIN THE FDA-APPROVED GESTATIONAL LIMIT;

(12) AS OF MARCH 2020, THE FDA REPORTED 4,480 ADVERSE EVENTS AFTER WOMEN USED MIFEPREX/MIFEPRISTONE FOR ABORTIONS AND AMONG THESE EVENTS WERE 1,183 HOSPITALIZATIONS, 339 BLOOD TRANSFUSIONS, AND 256 INFECTIONS, INCLUDING 48 “SEVERE INFECTIONS”;

(13) THE ADVERSE EVENT REPORTS (AER) SYSTEMS RELIED ON BY THE FDA HAVE LIMITATIONS AND TYPICALLY DETECT ONLY A SMALL PROPORTION OF EVENTS THAT ACTUALLY OCCUR;

(14) AS OF MARCH 2020:

(I) 1. 27 WOMEN HAVE REPORTEDLY DIED AFTER ADMINISTRATION OF MIFEPREX/MIFEPRISTONE, WITH SIX DEATHS ATTRIBUTED TO SEVERE BACTERIAL INFECTIONS; AND

2. EIGHT OF THOSE WOMEN ADMINISTERED THE MIFEPREX/MIFEPRISTONE REGIMEN IN AN “OFF-LABEL” OR “EVIDENCE-BASED” MANNER THEN ADVOCATED BY ABORTION PROVIDERS AND FOUR “OFF-LABEL USE” DEATHS WERE NOT LINKED TO THE BACTERIAL INFECTION DEATHS; BUT

(II) THE FDA HAS NOT BEEN ABLE TO DETERMINE WHETHER OFF-LABEL USE LED TO THE DEATHS;

(15) MEDICAL EVIDENCE DEMONSTRATES THAT WOMEN WHO USE ABORTION-INDUCING DRUGS RISK FOUR TIMES MORE COMPLICATIONS THAN THOSE WHO UNDERGO SURGICAL ABORTIONS;

(16) ALTHOUGH THE GESTATIONAL AGE RANGE OF 63 TO 70 DAYS HAS BEEN INADEQUATELY STUDIED AND THE 2016 FDA GESTATIONAL AGE EXTENSION WAS BASED ON ONLY ONE STUDY WORLDWIDE OF LITTLE MORE THAN 300 WOMEN, DATA ON MEDICAL ABORTIONS SHOW THAT:

(I) AT LEAST 3% TO 8% FAIL TO EVACUATE THE PREGNANCY TISSUE AND REQUIRE SURGICAL COMPLETION;

1 (II) APPROXIMATELY 1% WILL FAIL TO KILL THE FETUS;

2 (III) IF SURGICAL COMPLETION IS REQUIRED AFTER A FAILED
3 MEDICAL ABORTION, THE RISK OF PREMATURE DELIVERY IN A SUBSEQUENT
4 PREGNANCY IS MORE THAN THREE TIMES HIGHER; AND

5 (IV) FAILURE RATES INCREASE AS GESTATIONAL AGE
6 INCREASES;

7 (17) AFTER ENACTING A NEW ABORTION COMPLICATION REPORTING
8 LAW IN 2019, ARKANSAS FOUND THAT OF THE 45 COMPLICATIONS REPORTED IN
9 2020, 40 OF THEM, OR 88%, RESULTED FROM CHEMICAL ABORTIONS;

10 (18) A WOMAN'S ABILITY TO PROVIDE INFORMED CONSENT DEPENDS
11 ON THE EXTENT TO WHICH THE WOMAN RECEIVES INFORMATION SUFFICIENT TO
12 MAKE AN INFORMED CHOICE;

13 (19) THE DECISION TO ABORT "IS AN IMPORTANT, AND OFTEN A
14 STRESSFUL ONE, AND IT IS DESIRABLE AND IMPERATIVE THAT IT BE MADE WITH
15 FULL KNOWLEDGE OF ITS NATURE AND CONSEQUENCES", AS STATED IN PLANNED
16 PARENTHOOD V. DANFORTH, 428 U.S. 52, 67 (1976);

17 (20) SOME WOMEN COME TO REGRET THEIR DECISION TO ABORT
18 SHORTLY AFTER INGESTING MIFEPREX/MIFEPRISTONE, THE FIRST DRUG IN THE
19 CHEMICAL ABORTION REGIMEN;

20 (21) IN RECENT YEARS, PHYSICIANS HAVE DEVELOPED A METHOD TO
21 POTENTIALLY REVERSE THE EFFECTS OF MIFEPREX/MIFEPRISTONE, WHICH HAS
22 BEEN DISCUSSED IN A PEER-REVIEWED STUDY AND IS BASED ON DECADES OF THE
23 SAFE USE OF PROGESTERONE TO STABILIZE AND CONTINUE PREGNANCIES;

24 (22) UNDERSTANDING THE SCIENCE BEHIND THE MECHANISM OF
25 ACTION OF MIFEPREX/MIFEPRISTONE HAS ALLOWED PHYSICIANS TO DESIGN A
26 SPECIFIC "RESCUE" FOR A WOMAN WHO HAS USED MIFEPREX/MIFEPRISTONE TO
27 INDUCE AN ABORTION BUT HAS NOT YET INGESTED THE SECOND DRUG IN THE
28 CHEMICAL ABORTION REGIMEN;

29 (23) SINCE PHYSICIANS KNOW EXACTLY HOW
30 MIFEPREX/MIFEPRISTONE WORKS, BY BLOCKING PROGESTERONE, PHYSICIANS
31 KNOW THAT TREATING A WOMAN WITH PROGESTERONE CAN "KICK OFF" THE
32 MIFEPREX/MIFEPRISTONE BY DISPLACING MIFEPREX/MIFEPRISTONE FROM THE
33 PROGESTERONE RECEPTORS AND ALLOWING THE WOMAN'S BODY TO RESPOND

1 NATURALLY TO THE PROGESTERONE TO EFFECTIVELY FIGHT THE EFFECTS OF THE
2 MIFEPREX/MIFEPRISTONE-INDUCED BLOCKAGE;

3 (24) IT HAS LONG BEEN KNOWN THAT MIFEPRISTONE ACTS
4 REVERSIBLY AT THE MOLECULAR LEVEL OF RECEPTOR BINDING AND THAT
5 PROGESTERONE AND MIFEPRISTONE COMPETE FOR THE BINDING SITE OF THE
6 RECEPTOR, MAKING THE ANTIPROGESTERONE ACTIVITY OF MIFEPRISTONE
7 REVERSIBLE;

8 (25) MIFEPREX/MIFEPRISTONE FLOODS THE PROGESTERONE
9 RECEPTORS AND BLOCKS PROGESTERONE, ACTING TO BLOCK OR “REVERSE” THE
10 EFFECTS OF THE MIFEPREX/MIFEPRISTONE, THEREFORE A PREGNANT WOMAN IS
11 PRESCRIBED PROGESTERONE TO OUTCOMPETE AND OUTNUMBER THE
12 MIFEPRISTONE AND RESTORE ADEQUATE PROGESTERONE IN HER BODY TO SUSTAIN
13 THE PREGNANCY;

14 (26) PROGESTERONE HAS BEEN USED SAFELY IN PREGNANCIES FOR
15 DECADES, INCLUDING IN VITRO FERTILIZATION, INFERTILITY TREATMENTS, AND
16 HIGH-RISK PREGNANCIES, INCLUDING FOR WOMEN EXPERIENCING PRE-TERM
17 LABOR, THEREFORE USING PROGESTERONE TO REVERSE THE EFFECTS OF
18 MIFEPREX/MIFEPRISTONE IS A TARGETED RESPONSE THAT IS SAFE FOR THE
19 WOMAN;

20 (27) STATISTICS SHOW THAT, AS OF JANUARY 2022, MORE THAN 3,000
21 LIVES HAVE BEEN SAVED FOLLOWING THIS REVERSAL PROCESS AND THAT BABIES
22 BORN FOLLOWING THIS REVERSAL PROCESS HAVE A RATE OF BIRTH DEFECTS NOT
23 HIGHER THAN THE GENERAL POPULATION;

24 (28) STUDIES SHOW THAT FOLLOWING THIS REVERSAL PROCESS OR
25 OTHERWISE TREATING A WOMAN WITH PROGESTERONE DURING PREGNANCY DOES
26 NOT LEAD TO INCREASED MORTALITY RATES;

27 (29) TO FACILITATE RELIABLE SCIENTIFIC STUDIES AND RESEARCH
28 ON THE SAFETY AND EFFICACY OF ABORTION-INDUCING DRUGS, IT IS ESSENTIAL
29 THAT THE MEDICAL AND PUBLIC HEALTH COMMUNITIES HAVE ACCESS TO
30 ACCURATE INFORMATION BOTH ON THE EFFICACY AND USE OF
31 ABORTION-INDUCING DRUGS, AS WELL AS ON RESULTING COMPLICATIONS;

32 (30) ABORTION “RECORD KEEPING AND REPORTING PROVISIONS
33 THAT ARE REASONABLY DIRECTED TO THE PRESERVATION OF MATERNAL HEALTH
34 AND THAT PROPERLY RESPECT A PATIENT’S CONFIDENTIALITY AND PRIVACY ARE
35 PERMISSIBLE”, AS STATED IN PLANNED PARENTHOOD V. DANFORTH, 428 U.S. 80
36 AT 52, 79–81 (1976);

1 **(31) ABORTION AND COMPLICATION REPORTING PROVISIONS DO NOT**
2 **IMPOSE AN “UNDUE BURDEN” ON A WOMAN’S RIGHT TO CHOOSE WHETHER OR NOT**
3 **TO TERMINATE A PREGNANCY AND “[T]HE COLLECTION OF INFORMATION WITH**
4 **RESPECT TO ACTUAL PATIENTS IS A VITAL ELEMENT OF MEDICAL RESEARCH, AND**
5 **SO IT CANNOT BE SAID THAT THE REQUIREMENTS SERVE NO PURPOSE OTHER THAN**
6 **TO MAKE ABORTIONS MORE DIFFICULT”, AS STATED IN PLANNED PARENTHOOD V.**
7 **CASEY, 505 U.S. 833 AT 900–901 (1992); AND**

8 **(32) TO PROMOTE ITS INTEREST IN MATERNAL HEALTH AND LIFE, THE**
9 **STATE MAINTAINS AN INTEREST IN:**

10 **(I) COLLECTING SPECIFIED DEMOGRAPHIC INFORMATION ON**
11 **ALL DRUG–INDUCED ABORTIONS PERFORMED IN THE STATE;**

12 **(II) COLLECTING INFORMATION ON ALL ABORTION**
13 **COMPLICATIONS FROM ALL DRUG–INDUCED ABORTIONS DIAGNOSED OR TREATED**
14 **IN THE STATE; AND**

15 **(III) COMPILING STATISTICAL REPORTS BASED ON ABORTION**
16 **COMPLICATION INFORMATION COLLECTED IN ACCORDANCE WITH § 20–204 OF THIS**
17 **SUBTITLE FOR FUTURE SCIENTIFIC STUDIES AND PUBLIC HEALTH RESEARCH.**

18 **(B) BASED ON THE FINDINGS IN SUBSECTION (A) OF THIS SECTION, IT IS THE**
19 **PURPOSE OF §§ 20–203 THROUGH 20–206.1 OF THIS SUBTITLE TO:**

20 **(1) PROTECT THE HEALTH AND WELFARE OF EVERY WOMAN**
21 **CONSIDERING A DRUG–INDUCED ABORTION;**

22 **(2) ENSURE THAT A PHYSICIAN EXAMINES A WOMAN BEFORE**
23 **DISPENSING AN ABORTION–INDUCING DRUG IN ORDER TO CONFIRM THE**
24 **GESTATIONAL AGE OF THE UNBORN CHILD BEFORE ADMINISTERING THE**
25 **ABORTION–INDUCING DRUG, THE INTRAUTERINE LOCATION OF THE UNBORN**
26 **CHILD, AND THAT THE UNBORN CHILD IS ALIVE SINCE ROUTINE ADMINISTRATION**
27 **OF MIFEPREX/MIFEPRISTONE FOLLOWING SPONTANEOUS MISCARRIAGE IS**
28 **UNNECESSARY AND EXPOSES THE WOMAN TO UNNECESSARY RISKS ASSOCIATED**
29 **WITH BOTH MIFEPREX/MIFEPRISTONE AND MISOPROSTOL;**

30 **(3) ENSURE THAT A PHYSICIAN DOES NOT PRESCRIBE OR DISPENSE**
31 **AN ABORTION–INDUCING DRUG BEYOND THE 70TH DAY OF GESTATION;**

32 **(4) REDUCE “THE RISK THAT A WOMAN MAY ELECT AN ABORTION,**
33 **ONLY TO DISCOVER LATER, WITH DEVASTATING PSYCHOLOGICAL CONSEQUENCES,**

1 THAT HER DECISION WAS NOT FULLY INFORMED”, AS STATED IN PLANNED
2 PARENTHOOD V. CASEY, 505 U.S. 833, 882 (1992);

3 (5) ENSURE THAT A WOMAN CONSIDERING A DRUG-INDUCED
4 ABORTION RECEIVES COMPREHENSIVE INFORMATION ON ABORTION-INDUCING
5 DRUGS, INCLUDING THE POTENTIAL TO REVERSE THE EFFECTS OF THE DRUGS
6 SHOULD SHE CHANGE HER MIND, AND THAT A WOMAN SUBMITTING TO AN ABORTION
7 DOES SO ONLY AFTER GIVING HER VOLUNTARY AND FULLY INFORMED CONSENT TO
8 THE PROCEDURE; AND

9 (6) PROMOTE THE HEALTH AND SAFETY OF WOMEN, BY ADDING TO
10 THE MEDICAL AND PUBLIC HEALTH KNOWLEDGE THROUGH THE COMPILATION OF
11 RELEVANT DATA ON DRUG-INDUCED ABORTIONS PERFORMED IN THE STATE, AS
12 WELL AS ON ALL MEDICAL COMPLICATIONS AND MATERNAL DEATHS RESULTING
13 FROM THESE ABORTIONS.

14 20-203.

15 (A) (1) A PERSON MAY NOT PROVIDE AN ABORTION-INDUCING DRUG,
16 UNLESS THE PERSON:

17 (I) IS A QUALIFIED PHYSICIAN; AND

18 (II) FOLLOWS THE PROCEDURES UNDER THIS SECTION AND §
19 20-204 OF THIS SUBTITLE.

20 (2) A MANUFACTURER, SUPPLIER, PHARMACY, PHYSICIAN,
21 QUALIFIED PHYSICIAN, OR ANY OTHER PERSON MAY NOT PROVIDE AN
22 ABORTION-INDUCING DRUG BY COURIER, DELIVERY, OR MAIL SERVICE.

23 (B) BEFORE A QUALIFIED PHYSICIAN MAY PROVIDE AN
24 ABORTION-INDUCING DRUG TO A WOMAN, THE QUALIFIED PHYSICIAN SHALL:

25 (1) EXAMINE THE WOMAN IN PERSON;

26 (2) INDEPENDENTLY VERIFY THAT A PREGNANCY EXISTS;

27 (3) DETERMINE THE WOMAN’S BLOOD TYPE AND, IF SHE IS RH
28 NEGATIVE, BE ABLE TO AND OFFER TO ADMINISTER RHO GAM AT THE TIME OF THE
29 ABORTION;

30 (4) INFORM THE WOMAN THAT SHE MAY SEE THE REMAINS OR HER
31 UNBORN CHILD IN THE PROCESS OF COMPLETING THE ABORTION;

(5) DOCUMENT IN THE WOMAN'S MEDICAL CHART:

(I) THE GESTATIONAL AGE AND INTRAUTERINE LOCATION OF THE PREGNANCY; AND

(II) WHETHER SHE RECEIVED TREATMENT FOR RH NEGATIVITY, AS DIAGNOSED BY THE MOST ACCURATE STANDARD OF MEDICAL CARE; AND

(6) OBTAIN THE INFORMED, CONSENT, IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION, OF THE PREGNANT WOMAN TO WHOM THE ABORTION-INDUCING DRUG IS PROVIDED.

(C) A QUALIFIED PHYSICIAN MAY PROVIDE AN ABORTION-INDUCING DRUG TO A WOMAN IF THE QUALIFIED PHYSICIAN IS:

(1) CREDENTIALLED AND COMPETENT TO HANDLE COMPLICATION MANAGEMENT, INCLUDING EMERGENCY TRANSFER; OR

(2) HAS A SIGNED CONTRACT WITH AN ASSOCIATED PHYSICIAN WHO IS CREDENTIALLED TO HANDLE COMPLICATIONS AND IS ABLE TO PRODUCE THE SIGNED CONTRACT ON DEMAND BY THE PREGNANT WOMAN OR BY THE DEPARTMENT.

(D) IF APPLICABLE, A QUALIFIED PHYSICIAN SHALL PROVIDE TO EACH WOMAN TO WHOM THE QUALIFIED PHYSICIAN PROVIDES AN ABORTION-INDUCING DRUG, THE NAME AND TELEPHONE NUMBER OF THE ASSOCIATED PHYSICIAN WITH WHOM THE QUALIFIED PHYSICIAN HAS A SIGNED CONTRACT UNDER SUBSECTION (C)(2) OF THIS SECTION.

(E) (1) A QUALIFIED PHYSICIAN PROVIDING AN ABORTION-INDUCING DRUG OR AN AGENT OF THE QUALIFIED PHYSICIAN SHALL SCHEDULE A FOLLOW-UP VISIT FOR THE WOMAN BETWEEN 7 AND 14 DAYS AFTER THE DAY ON WHICH THE QUALIFIED PHYSICIAN ADMINISTERS THE ABORTION-INDUCING DRUG TO:

(I) CONFIRM THAT THE PREGNANCY IS COMPLETELY TERMINATED; AND

(II) ASSESS THE DEGREE OF BLEEDING.

1 **(2) THE QUALIFIED PHYSICIAN SHALL MAKE ALL REASONABLE**
2 **EFFORTS TO ENSURE THAT THE WOMAN RETURNS FOR THE SCHEDULED**
3 **APPOINTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

4 **(3) THE QUALIFIED PHYSICIAN SHALL INCLUDE IN THE WOMAN'S**
5 **MEDICAL RECORD A BRIEF DESCRIPTION OF THE EFFORTS MADE TO COMPLY WITH**
6 **THIS SUBSECTION, INCLUDING THE DATE, TIME, AND IDENTIFICATION BY NAME OF**
7 **THE PERSON MAKING THESE EFFORTS.**

8 **(F) ABORTION-INDUCING DRUGS MAY NOT BE PROVIDED ON STATE**
9 **GROUND, OR IN ANY SCHOOL BUILDING, INCLUDING AN ELEMENTARY AND**
10 **SECONDARY SCHOOL OR A PUBLIC INSTITUTION OF HIGHER EDUCATION.**

11 **(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
12 **AN INDIVIDUAL SHALL OBTAIN INFORMED CONSENT FROM A PREGNANT WOMAN TO**
13 **A DRUG-INDUCED ABORTION AT LEAST 24 HOURS BEFORE THE**
14 **ABORTION-INDUCING DRUG IS PROVIDED TO THE PREGNANT WOMAN.**

15 **(2) AN INDIVIDUAL IS NOT IN VIOLATION OF PARAGRAPH (1) OF THIS**
16 **SUBSECTION IF THE INDIVIDUAL PROVIDES AN ABORTION-INDUCING DRUG LESS**
17 **THAN 24 HOURS AFTER THE PREGNANT WOMAN GIVES CONSENT IF IN REASONABLE**
18 **MEDICAL JUDGMENT COMPLIANCE WITH THIS SUBSECTION WOULD POSE A RISK OF:**

19 **(I) THE DEATH OF THE PREGNANT WOMAN; OR**

20 **(II) THE SUBSTANTIAL AND IRREVERSIBLE PHYSICAL**
21 **IMPAIRMENT OF A MAJOR BODILY FUNCTION, NOT INCLUDING PSYCHOLOGICAL OR**
22 **EMOTIONAL CONDITIONS, OF THE PREGNANT WOMAN.**

23 **(3) A QUALIFIED PHYSICIAN SHALL USE THE FORM ESTABLISHED BY**
24 **THE DEPARTMENT UNDER SUBSECTION (H) OF THIS SECTION TO OBTAIN THE**
25 **CONSENT REQUIRED UNDER THIS SUBSECTION BEFORE PROVIDING AN**
26 **ABORTION-INDUCING DRUG.**

27 **(4) THE COMPLETION OF A CONSENT FORM IS NOT VALID AND**
28 **CONSENT IS NOT SUFFICIENT UNLESS:**

29 **(I) THE PATIENT INITIALS EACH ENTRY, LIST, DESCRIPTION,**
30 **OR DECLARATION REQUIRED TO BE ON THE CONSENT FORM UNDER SUBSECTION (H)**
31 **OF THIS SECTION;**

32 **(II) THE PATIENT SIGNS THE CONSENT STATEMENT UNDER**
33 **SUBSECTION (H)(11) OF THIS SECTION; AND**

1 (III) THE QUALIFIED PHYSICIAN SIGNS THE QUALIFIED
2 PHYSICIAN DECLARATION UNDER SUBSECTION (H)(12) OF THIS SECTION.

3 (H) THE DEPARTMENT SHALL DEVELOP A CONSENT FORM TO BE PROVIDED
4 TO A PREGNANT WOMAN IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION
5 THAT INCLUDES:

6 (1) THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AS
7 DETERMINED BY BOTH PATIENT HISTORY AND BY ULTRASOUND RESULTS USED TO
8 CONFIRM GESTATIONAL AGE;

9 (2) A DETAILED DESCRIPTION OF THE STEPS THE WOMAN MUST TAKE
10 TO COMPLETE THE DRUG-INDUCED ABORTION;

11 (3) A DETAILED LIST OF THE RISKS RELATED TO THE SPECIFIC
12 ABORTION-INDUCING DRUG OR DRUGS PROVIDED, INCLUDING:

13 (I) HEMORRHAGE;

14 (II) FAILURE TO REMOVE ALL TISSUE OF THE UNBORN CHILD,
15 WHICH MAY REQUIRE AN ADDITIONAL PROCEDURE;

16 (III) SEPSIS;

17 (IV) STERILITY; AND

18 (V) POSSIBLE CONTINUATION OF PREGNANCY;

19 (4) INFORMATION ABOUT RH INCOMPATIBILITY, INCLUDING THAT IF
20 THE WOMAN HAS AN RH NEGATIVE BLOOD TYPE, SHE SHOULD RECEIVE AN
21 INJECTION OF RH IMMUNOGLOBULIN, BRAND NAME RHO GAM, AT THE TIME OF THE
22 ABORTION TO PREVENT RH INCOMPATIBILITY IN FUTURE PREGNANCIES, WHICH
23 CAN LEAD TO COMPLICATIONS AND MISCARRIAGE IN FUTURE PREGNANCIES;

24 (5) THAT THE RISKS OF COMPLICATIONS FROM A DRUG-INDUCED
25 ABORTION, INCLUDING INCOMPLETE ABORTION, INCREASE WITH ADVANCING
26 GESTATIONAL AGE;

27 (6) THAT IT MAY BE POSSIBLE TO REVERSE THE EFFECTS OF THE
28 DRUG-INDUCED ABORTION SHOULD THE WOMAN CHANGE HER MIND, BUT THAT
29 TIME IS OF THE ESSENCE;

1 **(7) THAT THE WOMAN MAY SEE THE REMAINS OR HER UNBORN CHILD**
2 **IN THE PROCESS OF COMPLETING THE ABORTION;**

3 **(8) THAT INITIAL STUDIES SUGGEST THAT CHILDREN BORN AFTER**
4 **REVERSING THE EFFECTS OF MIFEPREX/MIFEPRISTONE HAVE NO GREATER RISK OF**
5 **BIRTH DEFECTS THAN THE GENERAL POPULATION;**

6 **(9) THAT INITIAL STUDIES SUGGEST THAT THERE IS NO INCREASED**
7 **RISK OF MATERNAL MORTALITY AFTER REVERSING THE EFFECTS OF**
8 **MIFEPREX/MIFEPRISTONE;**

9 **(10) THAT INFORMATION ON AND ASSISTANCE WITH REVERSING THE**
10 **EFFECTS OF ABORTION-INDUCING DRUGS ARE AVAILABLE IN THE**
11 **STATE-PREPARED MATERIALS PUBLISHED UNDER SUBSECTION (I) OF THIS**
12 **SECTION;**

13 **(11) AN “ACKNOWLEDGMENT OF RISKS AND CONSENT STATEMENT”**
14 **THAT MUST BE SIGNED BY THE PATIENT, INCLUDING THE FOLLOWING**
15 **DECLARATIONS THAT MUST BE INDIVIDUALLY INITIALED BY THE PATIENT:**

16 **(I) THAT THE PATIENT UNDERSTANDS THAT THE**
17 **ABORTION-INDUCING DRUG REGIMEN OR PROCEDURE IS INTENDED TO END THE**
18 **WOMAN’S PREGNANCY AND WILL RESULT IN THE DEATH OF THE UNBORN CHILD;**

19 **(II) THAT THE WOMAN IS NOT BEING FORCED TO HAVE AN**
20 **ABORTION, HAS THE CHOICE NOT TO HAVE THE ABORTION, AND MAY WITHDRAW HER**
21 **CONSENT TO THE ABORTION-INDUCING DRUG REGIMEN EVEN AFTER BEGINNING**
22 **THE ABORTION-INDUCING DRUG REGIMEN;**

23 **(III) THAT THE WOMAN UNDERSTANDS THAT THE**
24 **ABORTION-INDUCING DRUG REGIMEN OR PROCEDURE TO BE USED HAS SPECIFIC**
25 **RISKS AND MAY RESULT IN SPECIFIC COMPLICATIONS;**

26 **(IV) THAT THE WOMAN HAS BEEN GIVEN THE OPPORTUNITY TO**
27 **ASK QUESTIONS ABOUT THE PREGNANCY, THE DEVELOPMENT OF THE UNBORN**
28 **CHILD, ALTERNATIVES TO ABORTION, THE ABORTION-INDUCING DRUG OR DRUGS**
29 **TO BE USED, AND THE RISKS AND COMPLICATIONS INHERENT TO THE**
30 **ABORTION-INDUCING DRUG OR DRUGS TO BE USED;**

31 **(V) THAT THE WOMAN WAS PROVIDED WITH THE FOLLOWING**
32 **STATEMENT:**

1 “INFORMATION ON THE POTENTIAL ABILITY OF QUALIFIED MEDICAL
2 PROFESSIONALS TO REVERSE THE EFFECTS OF AN ABORTION OBTAINED THROUGH
3 THE USE OF ABORTION-INDUCING DRUGS IS AVAILABLE AT
4 WWW.ABORTIONPILLREVERSAL.COM, OR YOU CAN CONTACT (877) 558-0333 FOR
5 ASSISTANCE IN LOCATING A MEDICAL PROFESSIONAL THAT CAN AID IN THE
6 REVERSAL OF AN ABORTION.”;

7 (VI) THAT SHE HAS BEEN PROVIDED ACCESS TO
8 STATE-PREPARED, PRINTED MATERIALS ON INFORMED CONSENT FOR ABORTION
9 AND THE STATE-PREPARED AND MAINTAINED WEBSITE ON INFORMED CONSENT
10 FOR ABORTION ESTABLISHED UNDER SUBSECTION (I) OF THIS SECTION;

11 (VII) IF APPLICABLE, THAT THE WOMAN HAS BEEN GIVEN THE
12 NAME AND TELEPHONE NUMBER OF THE ASSOCIATED PHYSICIAN WHO HAS AGREED
13 TO PROVIDE MEDICAL CARE AND TREATMENT IN THE EVENT OF COMPLICATIONS
14 ASSOCIATED WITH THE ABORTION-INDUCING DRUG REGIMEN OR PROCEDURE;

15 (VIII) THAT THE QUALIFIED PHYSICIAN WILL SCHEDULE AN
16 IN-PERSON FOLLOW-UP VISIT FOR THE WOMAN BETWEEN 7 AND 14 DAYS AFTER THE
17 DAY ON WHICH THE WOMAN RECEIVED THE ABORTION-INDUCING DRUG TO
18 CONFIRM THAT THE PREGNANCY IS COMPLETELY TERMINATED AND TO ASSESS THE
19 DEGREE OF BLEEDING AND OTHER COMPLICATIONS;

20 (IX) THAT THE WOMAN HAS RECEIVED OR BEEN GIVEN
21 SUFFICIENT INFORMATION TO GIVE INFORMED CONSENT TO THE
22 ABORTION-INDUCING DRUG REGIMEN OR PROCEDURE; AND

23 (X) THAT THE WOMAN HAS A PRIVATE RIGHT OF ACTION TO SUE
24 THE QUALIFIED PHYSICIAN UNDER THE LAWS OF THE STATE IF SHE FEELS THAT SHE
25 HAS BEEN COERCED OR MISLED BEFORE OBTAINING AN ABORTION, AND HOW TO
26 ACCESS STATE RESOURCES REGARDING HER LEGAL RIGHT TO OBTAIN RELIEF; AND

27 (12) A “QUALIFIED PHYSICIAN DECLARATION” THAT MUST BE SIGNED
28 BY THE QUALIFIED PHYSICIAN, STATING THAT THE QUALIFIED PHYSICIAN HAS:

29 (I) EXPLAINED THE ABORTION-INDUCING DRUG OR DRUGS TO
30 BE USED;

31 (II) INFORMED THE PREGNANT WOMAN ABOUT ABORTION PILL
32 REVERSAL AND PROVIDED HER WITH PRINTED STATE-PREPARED MATERIALS AND
33 A LINK TO THE WEBSITE ESTABLISHED UNDER SUBSECTION (I) OF THIS SECTION;

(III) PROVIDED ALL THE INFORMATION REQUIRED IN THIS SUBSECTION; AND

(IV) ANSWERED ALL THE WOMAN'S QUESTIONS.

(I) (1) THE DEPARTMENT SHALL PREPARE AND PUBLISH MATERIALS IN PRINT AND ESTABLISH A WEBSITE ON INFORMED CONSENT FOR ABORTION THAT INCLUDES THE FOLLOWING STATEMENT:

"INFORMATION ON THE POTENTIAL ABILITY OF QUALIFIED MEDICAL PROFESSIONALS TO REVERSE THE EFFECTS OF AN ABORTION OBTAINED THROUGH THE USE OF ABORTION-INDUCING DRUGS IS AVAILABLE AT WWW.ABORTIONPILLREVERSAL.COM, OR YOU CAN CONTACT (877) 558-0333 FOR ASSISTANCE IN LOCATING A MEDICAL PROFESSIONAL THAT CAN AID IN THE REVERSAL OF AN ABORTION."

(2) THE DEPARTMENT SHALL ANNUALLY REVIEW AND UPDATE, AS NECESSARY, THE STATEMENT REQUIRED IN THE PUBLISHED MATERIALS PREPARED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

20-204.

(A) (1) FOR THE PURPOSE OF PROMOTING MATERNAL HEALTH AND ADDING TO MEDICAL AND PUBLIC HEALTH KNOWLEDGE THROUGH THE COMPILATION OF RELEVANT DATA, EACH PERSON WHO PERFORMS A DRUG-INDUCED ABORTION IN THE STATE SHALL REPORT THE ABORTION TO THE DEPARTMENT ON FORMS PRESCRIBED BY THE DEPARTMENT.

(2) A REPORT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:

(I) COMPLETED BY THE HOSPITAL OR OTHER FACILITY IN WHICH THE ABORTION-INDUCING DRUG WAS PROVIDED;

(II) SIGNED BY THE QUALIFIED PHYSICIAN WHO PROVIDED THE ABORTION-INDUCING DRUG; AND

(III) TRANSMITTED TO THE DEPARTMENT ON OR BEFORE THE 15TH DAY OF THE IMMEDIATELY FOLLOWING MONTH.

(3) THE DEPARTMENT SHALL UPDATE THE FORM FOR REPORTING AN ABORTION UNDER THIS SUBSECTION AS NEEDED TO REFLECT CHANGES TO DIAGNOSTIC AND REIMBURSEMENT CODING CLASSIFICATIONS.

1 (4) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, A
2 REPORT MADE TO THE DEPARTMENT UNDER THIS SUBSECTION SHALL INCLUDE THE
3 FOLLOWING INFORMATION:

4 (I) IDENTIFICATION OF THE QUALIFIED PHYSICIAN WHO
5 PROVIDED THE ABORTION-INDUCING DRUG;

6 (II) WHETHER THE DRUG-INDUCED ABORTION WAS
7 COMPLETED AT A HOSPITAL OR FACILITY IN WHICH THE ABORTION-INDUCING DRUG
8 WAS PROVIDED OR AT AN ALTERNATIVE LOCATION;

9 (III) THE REFERRING PHYSICIAN, AGENCY, OR SERVICE, IF ANY;

10 (IV) THE PREGNANT WOMAN'S COUNTY, STATE, AND COUNTRY
11 OF RESIDENCE;

12 (V) THE PREGNANT WOMAN'S AGE AND RACE;

13 (VI) THE NUMBER OF PREVIOUS PREGNANCIES, NUMBER OF
14 LIVE BIRTHS, AND NUMBER OF PREVIOUS ABORTIONS OF THE PREGNANT WOMAN;

15 (VII) THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD
16 AS DETERMINED BY BOTH THE WOMAN'S HISTORY AND BY ULTRASOUND RESULTS
17 USED TO CONFIRM THE GESTATIONAL AGE, AND THE DATE OF THE ULTRASOUND
18 AND GESTATIONAL AGE DETERMINED ON THAT DATE;

19 (VIII) THE ABORTION-INDUCING DRUG OR DRUGS USED, THE
20 DATE EACH WAS PROVIDED TO THE PREGNANT WOMAN, AND THE REASON FOR THE
21 ABORTION, IF KNOWN;

22 (IX) ANY PREEXISTING MEDICAL CONDITION OF THE PREGNANT
23 WOMAN THAT WOULD COMPLICATE HER PREGNANCY;

24 (X) WHETHER THE WOMAN RETURNED FOR A FOLLOW-UP
25 EXAMINATION TO DETERMINE COMPLETION OF THE ABORTION PROCEDURE AND TO
26 ASSESS BLEEDING, THE DATE AND RESULTS OF THE FOLLOW-UP EXAMINATION, AND
27 WHAT REASONABLE EFFORTS WERE MADE BY THE QUALIFIED PHYSICIAN TO
28 ENCOURAGE THAT THE WOMAN RETURN FOR A FOLLOW-UP EXAMINATION;

29 (XI) WHETHER THE WOMAN SUFFERED ANY ABORTION
30 COMPLICATIONS AND FROM WHICH SPECIFIC ABORTION COMPLICATION THE
31 WOMAN SUFFERED; AND

(XII) THE AMOUNT BILLED TO COVER THE TREATMENT FOR SPECIFIC COMPLICATIONS AND WHETHER THE TREATMENT WAS BILLED TO THE MEDICAL ASSISTANCE PROGRAM, PRIVATE INSURANCE, PRIVATE PAY, OR ANOTHER METHOD, INCLUDING THE FOLLOWING INFORMATION:

1. ICD-10 DIAGNOSIS CODE OR ANY OTHER TREATMENT OR PROCEDURE CODES REPORTED; AND

2. CHARGES FOR ANY PHYSICIAN, HOSPITAL, EMERGENCY ROOM, PRESCRIPTION OR OTHER DRUGS, LABORATORY TESTS, AND ANY OTHER COSTS FOR TREATMENT RENDERED.

(5) A REPORT SUBMITTED UNDER THIS SUBSECTION MAY NOT CONTAIN:

(I) THE NAME OF THE PREGNANT WOMAN;

(II) COMMON IDENTIFIERS INCLUDING A SOCIAL SECURITY NUMBER OR DRIVER'S LICENSE NUMBER; OR

(III) ANY OTHER INFORMATION OR IDENTIFIERS THAT WOULD MAKE IT POSSIBLE TO IDENTIFY, IN ANY MANNER OR UNDER ANY CIRCUMSTANCES, A WOMAN WHO HAS OBTAINED OR SEEKS TO OBTAIN A DRUG-INDUCED ABORTION.

(6) IF A DRUG-INDUCED ABORTION IS FOR A MINOR, THE QUALIFIED PHYSICIAN WHO PROVIDED THE ABORTION-INDUCING DRUG SHALL SUBMIT THE FORM REQUIRED UNDER THIS SUBSECTION:

(I) TO THE DEPARTMENT IN ACCORDANCE WITH THIS SUBSECTION; AND

(II) AS A REPORT OF CHILD ABUSE IN ACCORDANCE WITH § 5-704 OF THE FAMILY LAW ARTICLE.

(B) IF A QUALIFIED PHYSICIAN PROVIDES AN ABORTION-INDUCING DRUG TO A PREGNANT WOMAN FOR THE PURPOSE OF INDUCING AN ABORTION AS AUTHORIZED UNDER § 20-203 OF THIS SUBTITLE, AND IF THE QUALIFIED PHYSICIAN KNOWS THAT THE WOMAN WHO USES THE ABORTION-INDUCING DRUG FOR THE PURPOSE OF INDUCING AN ABORTION EXPERIENCES, DURING OR AFTER THE USE OF THE ABORTION-INDUCING DRUG, AN ABORTION COMPLICATION OR AN ADVERSE EVENT, THE QUALIFIED PHYSICIAN SHALL PROVIDE A WRITTEN REPORT OF THE ADVERSE EVENT WITHIN 3 DAYS AFTER THE DAY OF THE EVENT TO THE U.S. FOOD

1 AND DRUG ADMINISTRATION THROUGH THE MEDWATCH REPORTING SYSTEM AND
2 TO THE DEPARTMENT.

3 (C) (1) A PHYSICIAN, A QUALIFIED PHYSICIAN, AN ASSOCIATED
4 PHYSICIAN, OR ANY OTHER HEALTH CARE PROVIDER WHO DIAGNOSES OR TREATS A
5 WOMAN, EITHER CONTEMPORANEOUSLY TO OR AT ANY TIME AFTER AN ABORTION
6 PROCEDURE, FOR AN ADVERSE EVENT OR ABORTION COMPLICATION AFTER A
7 DRUG-INDUCED ABORTION SHALL MAKE A REPORT IN THE FORM AND MANNER
8 DETERMINED BY THE DEPARTMENT OF THE ADVERSE EVENT OR COMPLICATION TO
9 THE DEPARTMENT.

10 (2) A REPORT MADE UNDER THIS SUBSECTION SHALL BE:

11 (I) COMPLETED BY THE HOSPITAL OR OTHER FACILITY IN
12 WHICH THE ADVERSE EVENT OR ABORTION COMPLICATION DIAGNOSIS OR
13 TREATMENT WAS PROVIDED;

14 (II) SIGNED BY THE PHYSICIAN, QUALIFIED PHYSICIAN, OR
15 OTHER HEALTH CARE PROVIDER WHO DIAGNOSED OR TREATED THE ABORTION
16 COMPLICATION OR ADVERSE EVENT; AND

17 (III) TRANSMITTED TO THE DEPARTMENT ON OR BEFORE THE
18 15TH DAY OF THE MONTH IMMEDIATELY FOLLOWING THE MONTH IN WHICH THE
19 ADVERSE EVENT OR ABORTION COMPLICATION OCCURRED.

20 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A REPORT
21 MADE UNDER THIS SUBSECTION SHALL INCLUDE THE FOLLOWING INFORMATION:

22 (I) THE DATE THE WOMAN PRESENTED FOR TREATMENT;

23 (II) THE AGE AND RACE OF THE WOMAN;

24 (III) THE WOMAN'S STATE AND COUNTY OF RESIDENCE;

25 (IV) THE NUMBER OF PREVIOUS PREGNANCIES, NUMBER OF
26 LIVE BIRTHS, AND NUMBER OF PREVIOUS ABORTIONS OF THE WOMAN;

27 (V) THE DATE THE ABORTION WAS PERFORMED AND TYPE OF
28 ABORTION;

29 (VI) IDENTIFICATION OF THE PHYSICIAN WHO PERFORMED THE
30 ABORTION, THE FACILITY WHERE THE ABORTION WAS PERFORMED, AND THE
31 REFERRING PHYSICIAN, AGENCY, OR SERVICE, IF ANY;

(VII) THE SPECIFIC COMPLICATION THAT LED TO THE TREATMENT, INCLUDING THE FOLLOWING PHYSICAL OR PSYCHOLOGICAL CONDITIONS THAT, IN THE REASONABLE MEDICAL JUDGMENT OF A LICENSED HEALTH CARE PROFESSIONAL, AROSE AS A PRIMARY OR SECONDARY RESULT OF AN INDUCED ABORTION:

1. UTERINE PERFORATION;
2. CERVICAL LACERATION;
3. INFECTION;
4. BLEEDING;
5. VAGINAL BLEEDING THAT QUALIFIES AS A GRADE 2 OR HIGHER ADVERSE EVENT ACCORDING TO THE COMMON TERMINOLOGY CRITERIA FOR ADVERSE EVENTS (CTCAE);
6. PULMONARY EMBOLISM;
7. DEEP VEIN THROMBOSIS;
8. FAILURE TO ACTUALLY TERMINATE THE PREGNANCY;
9. INCOMPLETE ABORTION (RETAINED TISSUE);
10. PELVIC INFLAMMATORY DISEASE;
11. ENDOMETRITIS;
12. MISSED ECTOPIC PREGNANCY;
13. CARDIAC ARREST;
14. RESPIRATORY ARREST;
15. RENAL FAILURE;
16. SHOCK;
17. AMNIOTIC FLUID EMBOLISM;

1 18. COMA;

2 19. FREE FLUID IN THE ABDOMEN;

3 20. ALLERGIC REACTIONS TO ANESTHESIA AND
4 ABORTION-INDUCING DRUGS;

5 21. PSYCHOLOGICAL COMPLICATIONS, AS DIAGNOSED IN
6 ACCORDANCE WITH THE CURRENT DIAGNOSTIC AND STATISTICAL MANUAL (DSM);
7 AND

8 22. ANY RELATED COMPLICATION ARISING UNDER THE
9 FOLLOWING ICD-10 CODES:

10 A. O04.2;

11 B. O04.5;

12 C. O04.6;

13 D. O04.7;

14 E. O04.80;

15 F. O04.81;

16 G. O04.82;

17 H. O04.84;

18 I. O04.86;

19 J. O04.87;

20 K. O04.88;

21 L. O07.0;

22 M. O07.1;

23 N. O07.2;

24 O. O07.34;

1 **P. O07.38; AND**

2 **Q. P04.88;**

3 **(VIII) WHETHER THE PATIENT OBTAINED ABORTION-INDUCING**
4 **DRUGS THROUGH MAIL ORDER OR A WEBSITE AND, IF SO, INFORMATION**
5 **IDENTIFYING THE NAME OF THE SOURCE, URL ADDRESS, OR TELEMEDICINE**
6 **PROVIDER; AND**

7 **(IX) WHETHER THE DRUG-INDUCED ABORTION WAS**
8 **COMPLETED AT THE HOSPITAL OR FACILITY IN WHICH THE ABORTION-INDUCING**
9 **DRUG WAS PROVIDED OR AT AN ALTERNATIVE LOCATION.**

10 **(4) THE PERSON MAKING A REPORT UNDER THIS SUBSECTION SHALL**
11 **MAKE REASONABLE EFFORTS TO INCLUDE ALL OF THE REQUIRED INFORMATION**
12 **WITHOUT VIOLATING THE PRIVACY OF THE WOMAN.**

13 **(D) (1) THE DEPARTMENT SHALL ANNUALLY REPORT TO THE GENERAL**
14 **ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE,**
15 **ON A COMPREHENSIVE STATISTICAL ANALYSIS BASED ON THE DATA GATHERED**
16 **FROM REPORTS SUBMITTED UNDER THIS SECTION IN THE IMMEDIATELY**
17 **PRECEDING 12 MONTHS.**

18 **(2) THE DEPARTMENT SHALL PUBLISH AGGREGATED DATA**
19 **GATHERED FROM REPORTS SUBMITTED UNDER THIS SECTION ON ITS WEBSITE IN A**
20 **DOWNLOADABLE FORMAT.**

21 **(3) THE DEPARTMENT SHALL ANNUALLY SUMMARIZE AGGREGATED**
22 **DATA FROM THE REPORTS SUBMITTED UNDER THIS SECTION AND SUBMIT THE**
23 **SUMMARY TO THE CENTERS FOR DISEASE CONTROL AND PREVENTION IN THE TIME**
24 **AND MANNER AS REQUIRED FOR THE PURPOSE OF INCLUDING THE SUMMARY IN THE**
25 **ANNUAL VITAL STATISTICS REPORT.**

26 **(4) A REPORT ISSUED UNDER THIS SUBSECTION MAY NOT CONTAIN**
27 **INFORMATION THAT COULD IDENTIFY A WOMAN WHO SOUGHT OR RECEIVED AN**
28 **ABORTION.**

29 **(E) (1) A REPORT ISSUED UNDER THIS SECTION SHALL BE CONSIDERED**
30 **A PUBLIC RECORD AND SHALL BE AVAILABLE TO THE PUBLIC IN ACCORDANCE WITH**
31 **APPLICABLE CONFIDENTIALITY AND PUBLIC RECORDS REPORTING LAWS OF THE**
32 **STATE.**

(2) COPIES OF ANY REPORT ISSUED UNDER THIS SECTION SHALL BE AVAILABLE TO THE DEPARTMENT, A HEALTH OCCUPATIONS BOARD ESTABLISHED UNDER THE HEALTH OCCUPATIONS ARTICLE, STATE LAW ENFORCEMENT OFFICES, AND CHILD PROTECTIVE SERVICES FOR USE IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

(F) (1) ABSENT A VALID COURT ORDER OR JUDICIAL SUBPOENA, THE DEPARTMENT, ANY OTHER STATE AGENCY, OR ANY EMPLOYEE OF THE DEPARTMENT OR STATE AGENCY MAY NOT COMPARE DATA CONCERNING ABORTIONS OR ABORTION COMPLICATIONS MAINTAINED IN AN ELECTRONIC OR OTHER INFORMATION SYSTEM FILE WITH DATA IN ANY OTHER ELECTRONIC OR OTHER INFORMATION SYSTEM IF THE COMPARISON COULD RESULT IN IDENTIFYING A WOMAN OBTAINING OR SEEKING TO OBTAIN A DRUG-INDUCED ABORTION.

(2) THE DEPARTMENT, ANY OTHER STATE AGENCY, OR ANY EMPLOYEE OR CONTRACTOR OF THE DEPARTMENT OR STATE AGENCY MAY NOT MAINTAIN STATISTICAL INFORMATION THAT MAY REVEAL THE IDENTITY OF A WOMAN OBTAINING OR SEEKING TO OBTAIN AN ABORTION.

(G) THE DEPARTMENT SHALL COMMUNICATE THE REPORTING REQUIREMENTS UNDER THIS SECTION TO ALL MEDICAL PROFESSIONAL ORGANIZATIONS, LICENSED PHYSICIANS, HOSPITALS, EMERGENCY DEPARTMENTS, ABORTION FACILITIES, STATE HEALTH CLINICS, AMBULATORY SURGICAL FACILITIES, AND OTHER HEALTH CARE FACILITIES THAT MAY PERFORM AN ABORTION AND ARE OPERATING IN THE STATE.

20-205.

(A) (1) IN ADDITION TO THE REMEDIES AVAILABLE UNDER THE COMMON OR STATUTORY LAW OF THE STATE, FAILURE TO COMPLY WITH THE REQUIREMENTS OF §§ 20-203 AND 20-204 OF THIS SUBTITLE SHALL:

(I) PROVIDE A BASIS FOR A CIVIL MALPRACTICE ACTION FOR ACTUAL AND PUNITIVE DAMAGES, AND INJUNCTIVE, DECLARATORY, OR ANY OTHER APPROPRIATE RELIEF; AND

(II) PROVIDE A BASIS FOR RECOVERY FOR THE WOMAN'S FAMILY FOR THE WRONGFUL DEATH OF THE WOMAN UNDER TITLE 3, SUBTITLE 9 OF THE COURTS ARTICLE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A WOMAN ON WHOM THE DRUG-INDUCED ABORTION HAS BEEN ATTEMPTED, INDUCED, OR PERFORMED, OR HER PARENT OR GUARDIAN IF SHE IS A MINOR AT THE TIME OF THE

1 ATTEMPTED OR COMPLETED ABORTION, MAY BRING AN ACTION FOR A VIOLATION
2 OF § 20–203 OR § 20–204 OF THIS SUBTITLE AT ANY TIME FROM:

3 (I) THE POINT OF THE ALLEGED VIOLATION UNTIL 3 YEARS
4 AFTER THE DATE OF THE ALLEGED VIOLATION; OR

5 (II) THE POINT THAT HARM IS DISCOVERED UNTIL 3 YEARS
6 AFTER THE DATE OF INITIAL DISCOVERY OF HARM.

7 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ACTION
8 UNDER THIS SUBSECTION MAY BE COMMENCED, AND RELIEF MAY BE GRANTED, IN A
9 JUDICIAL PROCEEDING WITHOUT REGARD TO WHETHER THE PERSON COMMENCING
10 THE ACTION HAS SOUGHT OR EXHAUSTED AVAILABLE ADMINISTRATIVE REMEDIES.

11 (4) ON REQUEST, A COURT:

12 (I) SHALL AUTHORIZE A WOMAN TO PROCEED IN AN ACTION
13 UNDER THIS SUBSECTION USING ONLY HER INITIALS OR A PSEUDONYM; AND

14 (II) MAY CLOSE ANY PROCEEDINGS IN THE CASE UNDER THIS
15 SUBSECTION AND ENTER OTHER PROTECTIVE ORDERS TO PRESERVE THE PRIVACY
16 OF THE WOMAN ON WHOM THE DRUG–INDUCED ABORTION WAS ATTEMPTED,
17 INDUCED, OR PERFORMED.

18 (5) IF JUDGMENT UNDER THIS SUBSECTION IS RENDERED IN FAVOR
19 OF THE PLAINTIFF, THE COURT SHALL ALSO RENDER JUDGMENT FOR REASONABLE
20 ATTORNEY’S FEES IN FAVOR OF THE PLAINTIFF AGAINST THE DEFENDANT.

21 (6) IF JUDGMENT IS RENDERED IN FAVOR OF THE DEFENDANT AND
22 THE COURT FINDS THAT THE PLAINTIFF’S SUIT WAS FRIVOLOUS AND BROUGHT IN
23 BAD FAITH, THE COURT MAY RENDER JUDGMENT FOR REASONABLE ATTORNEY’S
24 FEES IN FAVOR OF THE DEFENDANT AGAINST THE PLAINTIFF.

25 (7) NO CIVIL LIABILITY MAY BE ASSESSED AGAINST THE PREGNANT
26 WOMAN ON WHOM THE DRUG–INDUCED ABORTION IS ATTEMPTED, INDUCED, OR
27 PERFORMED.

28 (B) (1) IN ADDITION TO ANY REMEDIES AVAILABLE UNDER THE COMMON
29 OR STATUTORY LAW OF THE STATE, FAILURE TO COMPLY WITH THE REQUIREMENTS
30 OF § 20–203 OR § 20–204 OF THIS SUBTITLE SHALL PROVIDE A BASIS FOR A
31 PROFESSIONAL DISCIPLINARY ACTION BY A HEALTH OCCUPATIONS BOARD
32 ESTABLISHED UNDER THE HEALTH OCCUPATIONS ARTICLE.

(2) A PROFESSIONAL SANCTION MAY NOT BE ASSESSED AGAINST THE PREGNANT WOMAN ON WHOM THE DRUG-INDUCED ABORTION IS ATTEMPTED, INDUCED, OR PERFORMED.

20-206.

SECTIONS 20-203 AND 20-204 OF THIS SUBTITLE MAY NOT BE CONSTRUED TO:

(1) CREATE OR RECOGNIZE A RIGHT TO ABORTION;

(2) REPEAL, REPLACE, OR OTHERWISE INVALIDATE EXISTING FEDERAL OR STATE LAWS, REGULATIONS, OR POLICIES; OR

(3) MAKE LAWFUL AN ABORTION THAT IS OTHERWISE UNLAWFUL.

20-206.1.

(A) THE GENERAL ASSEMBLY, BY JOINT RESOLUTION, MAY APPOINT ONE OR MORE OF ITS MEMBERS WHO SPONSORED OR COSPONSORED THE LEGISLATION THAT ENACTED §§ 20-201 THROUGH 20-206 OF THIS SUBTITLE IN THE MEMBER'S OFFICIAL CAPACITY TO INTERVENE AS A MATTER OF RIGHT IN ANY CASE IN WHICH THE CONSTITUTIONALITY OF §§ 20-201 THROUGH 20-206 OF THIS SUBTITLE IS CHALLENGED.

(B) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE COMPLIANCE WITH §§ 20-201 THROUGH 20-206 OF THIS SUBTITLE OR INTERVENE AS A MATTER OF RIGHT IN ANY CASE IN WHICH THE CONSTITUTIONALITY OF §§ 20-201 THROUGH 20-206 OF THIS SUBTITLE IS CHALLENGED.

20-208.

[An] EXCEPT AS PROVIDED IN § 20-203 OF THIS SUBTITLE, AN abortion must be performed by a licensed physician.

20-209.

(a) In this section, "viable" means that stage when, in the best medical judgment of the attending physician based on the particular facts of the case before the physician, there is a reasonable likelihood of the fetus's sustained survival outside the womb.

(b) Except as otherwise provided in this subtitle, the State may not interfere with the decision of a woman to terminate a pregnancy:

(1) Before the fetus is viable; or

(2) At any time during the woman's pregnancy, if:

(i) The termination procedure is necessary to protect the life or health of the woman; or

(ii) The fetus is affected by genetic defect or serious deformity or abnormality.

(c) The Department may adopt regulations that:

(1) Are both necessary and the least intrusive method to protect the life or health of the woman; and

(2) Are not inconsistent with established medical practice.

(d) **[The] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE** physician is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion under this section made in good faith and in the physician's best medical judgment in accordance with accepted standards of medical practice.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Department of Health shall develop and distribute the forms required by § 20–203(h) of the Health – General Article, as enacted by Section 1 of this Act, within 60 days after the effective date of this Act. The provisions of § 20–204 of the Health – General Article, as enacted by Section 1 of this Act, requiring the reporting of information on forms published by the Department may not be enforced until 10 days after the Department establishes and distributes the forms.

SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.