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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2847 Session of  
2022

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INTRODUCED BY FIEDLER, FRANKEL, KINKEAD, OTTEN, HILL-EVANS,  
RABB, MADDEN, CEPHAS, HANBIDGE, BENHAM, SCHLOSSBERG,  
KENYATTA, T. DAVIS, HOHENSTEIN, KINSEY, DELLOSO, STURLA,  
SHUSTERMAN, GUENST AND DALEY, OCTOBER 17, 2022

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REFERRED TO COMMITTEE ON HEALTH, OCTOBER 17, 2022

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in abortion, further providing for  
3 definitions, for medical consultation and judgment, for  
4 informed consent, for parental consent, for printed  
5 information, for determination of gestational age, for  
6 prohibited acts, for reporting, for civil penalties and for  
7 State Board of Medicine and State Board of Osteopathic  
8 Medicine.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The definitions of "probable gestational age of  
12 the unborn child" and "viability" in section 3203 of Title 18 of  
13 the Pennsylvania Consolidated Statutes are amended and the  
14 section is amended by adding a definition to read:

15 § 3203. Definitions.

16 The following words and phrases when used in this chapter  
17 shall have, unless the context clearly indicates otherwise, the  
18 meanings given to them in this section:

19 \* \* \*

20 "Probable gestational age of the unborn child." What, in the

1 judgment of the attending physician or qualified practitioner,  
2 will with reasonable probability be the gestational age of the  
3 unborn child at the time the abortion is planned to be  
4 performed.

5 "Qualified practitioner." Includes:

6 (1) A physician assistant as defined in section 2 of the  
7 act of October 5, 1978 (P.L.1109, No.261), known as the  
8 Osteopathic Medical Practice Act.

9 (2) A certified registered nurse practitioner as defined  
10 in section 2(12) of the act of May 22, 1951 (P.L.317, No.69),  
11 known as The Professional Nursing Law.

12 (3) A nurse-midwife as defined in section 2 of the act  
13 of December 20, 1985 (P.L.457, No.112), known as the Medical  
14 Practice Act of 1985.

15 \* \* \*

16 "Viability." That stage of fetal development when, in the  
17 judgment of the physician or qualified practitioner based on the  
18 particular facts of the case before [him] the physician or  
19 qualified practitioner and in light of the most advanced medical  
20 technology and information available to [him] the physician or  
21 qualified practitioner, there is a reasonable likelihood of  
22 sustained survival of the unborn child outside the body of his  
23 or her mother, with or without artificial support.

24 Section 2. Sections 3204, 3205(a)(1) introductory paragraph  
25 and (2) introductory paragraph, (c) and (d), 3206(a), (b), (c),  
26 (d) and (i), 3208(a)(1), 3210, 3213(b), (c) and (d), 3214(a)(1)  
27 and (10), (b), (c), (e)(3), (g), (h) introductory paragraph and  
28 (i), 3217 and 3219 of Title 18 are amended to read:

29 § 3204. Medical consultation and judgment.

30 [(a) Abortion prohibited; exceptions.--No abortion shall be

1 performed except by a physician after either:

2 (1) he determines that, in his best clinical judgment,  
3 the abortion is necessary; or

4 (2) he receives what he reasonably believes to be a  
5 written statement signed by another physician, hereinafter  
6 called the "referring physician," certifying that in this  
7 referring physician's best clinical judgment the abortion is  
8 necessary.

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

17 (c) Factors.--In determining in accordance with subsection  
18 (a) or (b) whether an abortion is necessary, a physician's best  
19 clinical judgment may be exercised in the light of all factors  
20 (physical, emotional, psychological, familial and the woman's  
21 age) relevant to the well-being of the woman. No abortion which  
22 is sought solely because of the sex of the unborn child shall be  
23 deemed a necessary abortion.]

24 (a.1) General rule.--Except as provided under subsection  
25 (a.2), an abortion shall be performed by a physician.

26 (a.2) Exception.--A qualified practitioner may perform a  
27 medication or aspiration abortion.

28 (b.1) Sovereignty over body.--Notwithstanding any other  
29 provision of this chapter, the decision to have an abortion  
30 shall be solely that of the patient in consultation with the

1 patient's physician or qualified practitioner.

2 (d) Penalty.--Any person who intentionally, knowingly or  
3 recklessly violates the provisions of this section commits a  
4 felony of the third degree, and any physician or qualified  
5 practitioner who violates the provisions of this section is  
6 guilty of "unprofessional conduct" and [his] the physician's or  
7 qualified practitioner's license [for the practice of medicine  
8 and surgery] shall be subject to suspension or revocation in  
9 accordance with procedures provided under the act of October 5,  
10 1978 (P.L.1109, No.261), known as the Osteopathic Medical  
11 Practice Act, the act of December 20, 1985 (P.L.457, No.112),  
12 known as the Medical Practice Act of 1985, the act of May 22,  
13 1951 (P.L.317, No.69), known as the Professional Nursing Law, or  
14 their successor acts.

15 § 3205. Informed consent.

16 (a) General rule.--No abortion shall be performed or induced  
17 except with the voluntary and informed consent of the woman upon  
18 whom the abortion is to be performed or induced. Except in the  
19 case of a medical emergency, consent to an abortion is voluntary  
20 and informed if and only if:

21 (1) At least 24 hours prior to the abortion, the  
22 physician or qualified practitioner who is to perform the  
23 abortion [or the referring physician] has orally informed the  
24 woman of:

25 \* \* \*

26 (2) At least 24 hours prior to the abortion, the  
27 physician or qualified practitioner who is to perform the  
28 abortion [or the referring physician], or a qualified  
29 physician assistant, health care practitioner, technician or  
30 social worker to whom the responsibility has been delegated

1 by [either] the physician or qualified practitioner, has  
2 informed the pregnant woman that:

3 \* \* \*

4 (c) Penalty.--Any physician or qualified practitioner who  
5 violates the provisions of this section is guilty of  
6 "unprofessional conduct" and [his] the physician's or qualified  
7 practitioner's license [for the practice of medicine and  
8 surgery] shall be subject to suspension or revocation in  
9 accordance with procedures provided under the act of October 5,  
10 1978 (P.L.1109, No.261), known as the Osteopathic Medical  
11 Practice Act, the act of December 20, 1985 (P.L.457, No.112),  
12 known as the Medical Practice Act of 1985, the act of May 22,  
13 1951 (P.L.317, No.69), known as the Professional Nursing Law, or  
14 their successor acts. Any physician or qualified practitioner  
15 who performs or induces an abortion without first obtaining the  
16 certification required by subsection (a) (4) or with knowledge or  
17 reason to know that the informed consent of the woman has not  
18 been obtained shall for the first offense be guilty of a summary  
19 offense and for each subsequent offense be guilty of a  
20 misdemeanor of the third degree. No physician or qualified  
21 practitioner shall be guilty of violating this section for  
22 failure to furnish the information required by subsection (a) if  
23 he or she can demonstrate, by a preponderance of the evidence,  
24 that he or she reasonably believed that furnishing the  
25 information would have resulted in a severely adverse effect on  
26 the physical or mental health of the patient.

27 (d) Limitation on civil liability.--Any physician or  
28 qualified practitioner who complies with the provisions of this  
29 section may not be held civilly liable to [his] a patient for  
30 failure to obtain informed consent to the abortion within the

1 meaning of that term as defined by [the act of October 15, 1975  
2 (P.L.390, No.111), known as the Health Care Services Malpractice  
3 Act.] section 503 of the act of March 20, 2002 (P.L.154, No.13),  
4 known as the Medical Care Availability and Reduction of Error  
5 (Mcare) Act.

6 § 3206. Parental consent.

7 (a) General rule.--Except in the case of a medical  
8 emergency, or except as provided in this section, if a pregnant  
9 woman is less than 18 years of age and not emancipated, or if  
10 she has been adjudged an incapacitated person under 20 Pa.C.S. §  
11 5511 (relating to petition and hearing; independent evaluation),  
12 a physician or qualified practitioner shall not perform an  
13 abortion upon her unless, in the case of a woman who is less  
14 than 18 years of age, [he] the physician or qualified  
15 practitioner first obtains the informed consent both of the  
16 pregnant woman and of one of her parents; or, in the case of a  
17 woman who is an incapacitated person, [he] the physician or  
18 qualified practitioner first obtains the informed consent of her  
19 guardian. In deciding whether to grant such consent, a pregnant  
20 woman's parent or guardian shall consider only their child's or  
21 ward's best interests. In the case of a pregnancy that is the  
22 result of incest where the father is a party to the incestuous  
23 act, the pregnant woman need only obtain the consent of her  
24 mother.

25 (b) Unavailability of parent or guardian.--If both parents  
26 have died or are otherwise unavailable to the physician or  
27 qualified practitioner within a reasonable time and in a  
28 reasonable manner, consent of the pregnant woman's guardian or  
29 guardians shall be sufficient. If the pregnant woman's parents  
30 are divorced, consent of the parent having custody shall be

1 sufficient. If neither any parent nor a legal guardian is  
2 available to the physician or qualified practitioner within a  
3 reasonable time and in a reasonable manner, consent of any adult  
4 person standing in loco parentis shall be sufficient.

5 (c) Petition to court for consent.--If both of the parents  
6 or guardians of the pregnant woman refuse to consent to the  
7 performance of an abortion or if she elects not to seek the  
8 consent of either of her parents or of her guardian, the court  
9 of common pleas of the judicial district in which the applicant  
10 resides or in which the abortion is sought shall, upon petition  
11 or motion, after an appropriate hearing, authorize a physician  
12 or qualified practitioner to perform the abortion if the court  
13 determines that the pregnant woman is mature and capable of  
14 giving informed consent to the proposed abortion, and has, in  
15 fact, given such consent.

16 (d) Court order.--If the court determines that the pregnant  
17 woman is not mature and capable of giving informed consent or if  
18 the pregnant woman does not claim to be mature and capable of  
19 giving informed consent, the court shall determine whether the  
20 performance of an abortion upon her would be in her best  
21 interests. If the court determines that the performance of an  
22 abortion would be in the best interests of the woman, it shall  
23 authorize a physician or qualified practitioner to perform the  
24 abortion.

25 \* \* \*

26 (i) Penalty.--Any person who performs an abortion upon a  
27 woman who is an unemancipated minor or incapacitated person to  
28 whom this section applies either with knowledge that she is a  
29 minor or incapacitated person to whom this section applies, or  
30 with reckless disregard or negligence as to whether she is a

1 minor or incapacitated person to whom this section applies, and  
2 who intentionally, knowingly or recklessly fails to conform to  
3 any requirement of this section is guilty of "unprofessional  
4 conduct" and [his] the physician's or qualified practitioner's  
5 license [for the practice of medicine and surgery] shall be  
6 suspended in accordance with procedures provided under the act  
7 of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic  
8 Medical Practice Act, the act of December 20, 1985 (P.L.457,  
9 No.112), known as the Medical Practice Act of 1985, the act of  
10 May 22, 1951 (P.L.317, No.69), known as the Professional Nursing  
11 Law, or their successor acts, for a period of at least three  
12 months. Failure to comply with the requirements of this section  
13 is prima facie evidence of failure to obtain informed consent  
14 and of interference with family relations in appropriate civil  
15 actions. The law of this Commonwealth shall not be construed to  
16 preclude the award of exemplary damages or damages for emotional  
17 distress even if unaccompanied by physical complications in any  
18 appropriate civil action relevant to violations of this section.  
19 Nothing in this section shall be construed to limit the common  
20 law rights of parents.

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, and shall update on an annual  
25 basis, the following easily 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 provide information on the availability of  
9 medical assistance benefits for prenatal care, childbirth and  
10 neonatal care, and state that it is unlawful for any  
11 individual to coerce a woman to undergo abortion, that any  
12 physician or qualified practitioner who performs an abortion  
13 upon a woman without obtaining her informed consent or  
14 without according her a private medical consultation may be  
15 liable to her for damages in a civil action at law, that the  
16 father of a child is liable to assist in the support of that  
17 child, even in instances where the father has offered to pay  
18 for an abortion and that the law permits adoptive parents to  
19 pay costs of prenatal care, childbirth and neonatal care.

20 \* \* \*

21 § 3210. Determination of gestational age.

22 (a) Requirement.--Except in the case of a medical emergency  
23 which prevents compliance with this section, no abortion shall  
24 be performed or induced unless the [referring physician or the]  
25 physician or qualified practitioner performing or inducing [it]  
26 the abortion has first made a determination of the probable  
27 gestational age of the unborn child. In making such  
28 determination, the physician or qualified practitioner shall  
29 make such inquiries of the patient and perform or cause to be  
30 performed such medical examinations and tests as a prudent

1 physician would consider necessary to make or perform in making  
2 an accurate diagnosis with respect to gestational age. The  
3 physician or qualified practitioner who performs or induces the  
4 abortion shall report the type of inquiries made and the type of  
5 examinations and tests utilized to determine the gestational age  
6 of the unborn child and the basis for the diagnosis with respect  
7 to gestational age on forms provided by the department.

8 (b) Penalty.--Failure of any physician or qualified  
9 practitioner to conform to any requirement of this section  
10 constitutes "unprofessional conduct" within the meaning of the  
11 act of October 5, 1978 (P.L.1109, No.261), known as the  
12 Osteopathic Medical Practice Act, the act of December 20, 1985  
13 (P.L.457, No.112), known as the Medical Practice Act of 1985,  
14 the act of May 22, 1951 (P.L.317, No.69), known as the  
15 Professional Nursing Law, or their successor acts. Upon a  
16 finding by the State Board of Medicine [or], the State Board of  
17 Osteopathic Medicine or the State Board of Nursing that any  
18 physician or qualified practitioner has failed to conform to any  
19 requirement of this section, the board shall not fail to suspend  
20 that physician's or qualified practitioner's license for a  
21 period of at least three months. Intentional, knowing or  
22 reckless falsification of any report required under this section  
23 is a misdemeanor of the third degree.

24 § 3213. Prohibited acts.

25 \* \* \*

26 (b) Referral fee.--The payment or receipt of a referral fee  
27 in connection with the performance of an abortion is a  
28 misdemeanor of the first degree. For purposes of this section,  
29 "referral fee" means the transfer of anything of value between a  
30 physician or qualified practitioner who performs an abortion or

1 an operator or employee of a clinic at which an abortion is  
2 performed and the person who advised the woman receiving the  
3 abortion to use the services of that physician, qualified  
4 practitioner or clinic.

5 (c) Regulations.--The department shall issue regulations to  
6 assure that prior to the performance of any abortion, including  
7 abortions performed in the first trimester of pregnancy, the  
8 maternal Rh status shall be determined and that anti-Rh  
9 sensitization prophylaxis shall be provided to each patient at  
10 risk of sensitization unless the patient refuses to accept the  
11 treatment. Except when there exists a medical emergency or, in  
12 the judgment of the physician or qualified practitioner, there  
13 exists no possibility of Rh sensitization, the intentional,  
14 knowing, or reckless failure to conform to the regulations  
15 issued pursuant to this subsection constitutes "unprofessional  
16 conduct" and [his] the physician's or qualified practitioner's  
17 license [for the practice of medicine and surgery] shall be  
18 subject to suspension or revocation in accordance with  
19 procedures provided under the act of October 5, 1978 (P.L.1109,  
20 No.261), known as the Osteopathic Medical Practice Act, the act  
21 of December 20, 1985 (P.L.457, No.112), known as the Medical  
22 Practice Act of 1985, the act of May 22, 1951 (P.L.317, No.69),  
23 known as the Professional Nursing Law, or their successor acts.

24 (d) Participation in abortion.--Except for a facility  
25 devoted exclusively to the performance of abortions, no medical  
26 personnel or medical facility, nor any employee, agent or  
27 student thereof, shall be required against [his or its] the  
28 individual's conscience to aid, abet or facilitate performance  
29 of an abortion or dispensing of an abortifacient and failure or  
30 refusal to do so shall not be a basis for any civil, criminal,

1 administrative or disciplinary action, penalty or proceeding,  
2 nor may it be the basis for refusing to hire or admit anyone.  
3 Nothing herein shall be construed to limit the provisions of the  
4 act of October 27, 1955 (P.L.744, No.222), known as the  
5 "Pennsylvania Human Relations Act." Any person who knowingly  
6 violates the provisions of this subsection shall be civilly  
7 liable to the person thereby injured and, in addition, shall be  
8 liable to that person for punitive damages in the amount of  
9 \$5,000.

10 \* \* \*

11 § 3214. Reporting.

12 (a) General rule.--For the purpose of promotion of maternal  
13 health and life by adding to the sum of medical and public  
14 health knowledge through the compilation of relevant data, and  
15 to promote the Commonwealth's interest in protection of the  
16 unborn child, a report of each abortion performed shall be made  
17 to the department on forms prescribed by [it] the department.  
18 The report forms shall not identify the individual patient by  
19 name and shall include the following information:

20 (1) Identification of the physician or qualified  
21 practitioner who performed the abortion, the concurring  
22 physician as required by section 3211(c)(2) (relating to  
23 abortion on unborn child of 24 or more weeks gestational  
24 age), the second physician as required by section 3211(c)(5)  
25 and the facility where the abortion was performed [and of the  
26 referring physician, agency or service, if any].

27 \* \* \*

28 (10) Basis for any medical judgment that a medical  
29 emergency existed which excused the physician or qualified  
30 practitioner from compliance with any provision of this

1 chapter.

2 \* \* \*

3 (b) Completion of report.--The reports shall be completed by  
4 the hospital or other licensed facility, signed by the physician  
5 or qualified practitioner who performed the abortion and  
6 transmitted to the department within 15 days after each  
7 reporting month.

8 (c) Pathological examinations.--When there is an abortion  
9 performed during the first trimester of pregnancy, the tissue  
10 that is removed shall be subjected to a gross or microscopic  
11 examination, as needed, by the physician, qualified practitioner  
12 or a qualified person designated by the physician or qualified  
13 practitioner to determine if a pregnancy existed and was  
14 terminated. If the examination indicates no fetal remains, that  
15 information shall immediately be made known to the physician or  
16 qualified practitioner and sent to the department within 15 days  
17 of the analysis. When there is an abortion performed after the  
18 first trimester of pregnancy where the physician or qualified  
19 practitioner has certified the unborn child is not viable, the  
20 dead unborn child and all tissue removed at the time of the  
21 abortion shall be submitted for tissue analysis to a board  
22 eligible or certified pathologist. If the report reveals  
23 evidence of viability or live birth, the pathologist shall  
24 report such findings to the department within 15 days and a copy  
25 of the report shall also be sent to the physician or qualified  
26 practitioner performing the abortion. Intentional, knowing,  
27 reckless or negligent failure of the physician or qualified  
28 practitioner to submit such an unborn child or such tissue  
29 remains to such a pathologist for such a purpose, or  
30 intentional, knowing or reckless failure of the pathologist to

1 report any evidence of live birth or viability to the department  
2 in the manner and within the time prescribed is a misdemeanor of  
3 the third degree.

4 \* \* \*

5 (e) Statistical reports; public availability of reports.--

6 \* \* \*

7 (3) Original copies of all reports filed under  
8 subsections (a), (f) and (h) shall be available to the State  
9 Board of Medicine [and], the State Board of Osteopathic  
10 Medicine and the State Board of Nursing for use in the  
11 performance of their official duties.

12 \* \* \*

13 (g) Report of maternal death.--After 30 days' public notice,  
14 the department shall [henceforth] require that all reports of  
15 maternal deaths occurring within the Commonwealth arising from  
16 pregnancy, childbirth or intentional abortion in every case  
17 state the cause of death, the duration of the woman's pregnancy  
18 when her death occurred and whether or not the woman was under  
19 the care of a physician or qualified practitioner during her  
20 pregnancy prior to her death and shall issue such regulations as  
21 are necessary to assure that such information is reported,  
22 conducting its own investigation if necessary in order to  
23 ascertain such data. A woman shall be deemed to have been under  
24 the care of a physician or qualified practitioner prior to her  
25 death for the purpose of this chapter when she had either been  
26 examined or treated by a physician or qualified practitioner,  
27 not including any examination or treatment in connection with  
28 emergency care for complications of her pregnancy or  
29 complications of her abortion, preceding the woman's death at  
30 any time which is both 21 or more days after the time she became

1 pregnant and within 60 days prior to her death. Known incidents  
2 of maternal mortality of nonresident women arising from induced  
3 abortion performed in this Commonwealth shall be included as  
4 incidents of maternal mortality arising from induced abortions.  
5 Incidents of maternal mortality arising from continued pregnancy  
6 or childbirth and occurring after induced abortion has been  
7 attempted but not completed, including deaths occurring after  
8 induced abortion has been attempted but not completed as the  
9 result of ectopic pregnancy, shall be included as incidents of  
10 maternal mortality arising from induced abortion. The department  
11 shall annually compile a statistical report for the General  
12 Assembly based upon the data gathered under this subsection, and  
13 all such statistical reports shall be available for public  
14 inspection and copying.

15 (h) Report of complications.--Every physician or qualified  
16 practitioner who is called upon to provide medical care or  
17 treatment to a woman who is in need of medical care because of a  
18 complication or complications resulting, in the good faith  
19 judgment of the physician or qualified practitioner, from having  
20 undergone an abortion or attempted abortion shall prepare a  
21 report thereof and file the report with the department within 30  
22 days of the date of [his] the physician's or qualified  
23 practitioner's first examination of the woman, which report  
24 shall be on forms prescribed by the department, which forms  
25 shall contain the following information, as received, and such  
26 other information except the name of the patient as the  
27 department may from time to time require:

28 \* \* \*

29 (i) Penalties.--

30 (1) Any person required under this section to file a

1 report, keep any records or supply any information, who  
2 willfully fails to file such report, keep such records or  
3 supply such information at the time or times required by law  
4 or regulation is guilty of "unprofessional conduct" and [his]  
5 the physician's or qualified practitioner's license [for the  
6 practice of medicine and surgery] shall be subject to  
7 suspension or revocation in accordance with procedures  
8 provided under the act of October 5, 1978 (P.L.1109, No.261),  
9 known as the Osteopathic Medical Practice Act, the act of  
10 December 20, 1985 (P.L.457, No.112), known as the Medical  
11 Practice Act of 1985, the act of May 22, 1951 (P.L.317,  
12 No.69), known as the Professional Nursing Law, or their  
13 successor acts.

14 (2) Any person who willfully delivers or discloses to  
15 the department any report, record or information known by  
16 [him] the person to be false commits a misdemeanor of the  
17 first degree.

18 (3) In addition to the above penalties, any person,  
19 organization or facility who willfully violates any of the  
20 provisions of this section requiring reporting shall upon  
21 conviction thereof:

22 (i) For the first time, have [its] the person's,  
23 organization's or facility's license suspended for a  
24 period of six months.

25 (ii) For the second time, have [its] the person's,  
26 organization's or facility's license suspended for a  
27 period of one year.

28 (iii) For the third time, have [its] the person's,  
29 organization's or facility's license revoked.

30 § 3217. Civil penalties.



1 Any physician or qualified practitioner who knowingly  
2 violates any of the provisions of section 3204 (relating to  
3 medical consultation and judgment) or 3205 (relating to informed  
4 consent) shall, in addition to any other penalty prescribed in  
5 this chapter, be civilly liable to [his] a patient for any  
6 damages caused thereby and, in addition, shall be liable to  
7 [his] a patient for punitive damages in the amount of \$5,000,  
8 and the court shall award a prevailing plaintiff a reasonable  
9 attorney fee as part of costs.

10 § 3219. [State Board of Medicine; State Board of Osteopathic  
11 Medicine.] Duties of the State Board of Medicine,  
12 State Board of Osteopathic Medicine and State Board  
13 of Nursing.

14 (a) Enforcement.--It shall be the duty of the State Board of  
15 Medicine [and], the State Board of Osteopathic Medicine and the  
16 State Board of Nursing to vigorously enforce those provisions of  
17 this chapter, violation of which constitutes "unprofessional  
18 conduct" within the meaning of the act of October 5, 1978  
19 (P.L.1109, No.261), known as the Osteopathic Medical Practice  
20 Act, the act of December 20, 1985 (P.L.457, No.112), known as  
21 the Medical Practice Act of 1985, the act of May 22, 1951  
22 (P.L.317, No.69), known as the Professional Nursing Law, or  
23 their successor acts. Each board shall have the power to  
24 conduct, and its responsibilities shall include, systematic  
25 review of all reports filed under this chapter.

26 (b) Penalties.--Except as otherwise herein provided, upon a  
27 finding of "unprofessional conduct" under the provisions of this  
28 chapter, the board shall, for the first such offense, prescribe  
29 such penalties as it deems appropriate; for the second such  
30 offense, suspend the license of the physician or qualified

1 practitioner for at least 90 days; and, for the third such  
2 offense, revoke the license of the physician or qualified  
3 practitioner.

4 (c) Reports.--The board shall prepare and submit an annual  
5 report of its enforcement efforts under this chapter to the  
6 General Assembly, which shall contain the following items:

7 (1) number of violations investigated, by section of  
8 this chapter;

9 (2) number of physicians or qualified practitioner  
10 complained against;

11 (3) number of physicians or qualified practitioner  
12 investigated;

13 (4) penalties imposed; and

14 (5) such other information as any committee of the  
15 General Assembly shall require.

16 Such reports shall be available for public inspection and  
17 copying.

18 Section 3. This act shall take effect immediately.