AN ACT relating to abortion and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 311.732 is amended to read as follows:

(1) For purposes of this section the following definitions shall apply:

(a) "Minor" means any person under the age of eighteen (18);

(b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and

(c) "Abortion" means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon a minor unless:

(a) ***1.*** The attending physician~~[or his agent]~~ secured the informed written consent of the minor and one (1) parent or legal guardian***. The informed written consent shall include:***~~[;]~~

a. A copy of the parent's or legal guardian's government-issued identification; and

b. The parent's or legal guardian's certification that he or she consents to the abortion. The certification shall be in a signed, dated, and notarized document that has been initialed on each page and that contains the following statement, which shall precede the signature of the parent or legal guardian: "I, (insert name of parent or legal guardian), am the (select "parent" or "legal guardian") of (insert name of minor) and give consent for (insert name of attending physician) to perform an abortion on

her. Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.".

2. The attending physician shall keep a copy of the informed written consent in the medical file of the minor for five (5) years after the minor reaches eighteen (18) years of age or for seven (7) years, whichever is longer.

3. The attending physician securing the informed written consent from a parent or legal guardian under this paragraph shall execute for inclusion in the medical record of the minor an affidavit stating: "I, (insert name of attending physician), certify that, according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and her parent or legal guardian as sufficient evidence of identity.";

(b) The minor is emancipated and the attending physician~~[or his agent]~~ has received the informed written consent of the minor; or

(c) The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician~~[or his agent]~~ has received the informed written consent of the minor.

(3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

(a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

(b) The court shall insure that the minor prepares or her next friend is given

assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;

(c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court-appointed counsel and shall provide her with such counsel upon her request;

(d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

(e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to***:***

1. The minor's:

a. Age;

b. ~~[The]~~Emotional development ***and stability;***~~[,]~~

c. Maturity***;***~~[,]~~

d. Intellect~~[, and understanding of the minor]~~;

e. Credibility and demeanor as a witness;

f. Ability to accept responsibility;

g. Ability to assess both the current and future life impacting~~[the nature, possible]~~ consequences ***of***, and alternatives to***,*** the abortion;

and

h. Ability to understand and explain the medical risks of the abortion and to apply that understanding to her decision; and

2. Whether there may be any undue influence by another on the minor's decision to have an abortion~~[any other evidence that the court may find~~

~~useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor~~].

(4) ***(a) If the court finds by:***

1. Clear and convincing evidence that the minor is sufficiently mature to decide whether to have an abortion;

2. Clear and convincing evidence that the requirements of this section are not in the best interest of the minor; or

3. A preponderance of the evidence that the minor is the victim of child abuse or sexual abuse inflicted by one (1) or both of her parents or her legal guardian;

the court shall enter a written order, making specific factual findings and legal conclusions supporting its decision***, granting the petition for an abortion.***[~~as follows: ~~]

(b) If the court does not make the findings specified in paragraph (a) of this subsection, the court shall deny the petition[~~(a) Granting the petition for an abortion if the court finds that the minor is mature and well-informed enough to make the abortion decision on her own;~~

~~(b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or~~

~~(c) Deny the petition, if the court finds that the minor is immature and that performance of the abortion would not be in the minor's best interest~~].

(c) As used in this subsection, "best interest of the minor" shall not include financial best interest, financial considerations, or the potential financial impact on the minor or the minor's family if the minor does not have an abortion.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of

Appeals, and that court shall give precedence over other pending matters.

(6) ***All hearings under this section, including appeals, shall remain confidential and closed to the public. The hearings shall be held in chambers or in a similarly private and informal setting within the courthouse.***

(7) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(8)~~[(7)]~~ ***(a)*** The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(b) The Supreme Court, through the Administrative Office of the Courts, shall report by February 1 of each year to the Legislative Research Commission on the number of petitions filed under subsection (3) of this section for the preceding year, and the timing and manner of disposal of the petition by each court. For each petition resulting in a waiver of the requirements of this section, the reason for the waiver shall be included in the report.

(9) (a)~~[(8)]~~ The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion.

(b) If a medical emergency exists, the physician shall make reasonable attempts, whenever possible, and without endangering the minor, to contact the parent or legal guardian of the minor, and may proceed, but must document reasons for the medical necessity in the minor's medical records.

(c) The physician shall inform the parent or legal guardian, in person or by telephone, within twenty-four (24) hours of the abortion, including details of the medical emergency that necessitated the abortion without the parent's or legal guardian's consent. The physician shall also provide this

information in writing to the parent or legal guardian at his or her last known address by first-class mail or by certified mail, return receipt requested, with delivery restricted to the parent or legal guardian~~[A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based]~~.

(10)~~[(9)]~~ A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the Cabinet for Health and Family Services on a form supplied by the cabinet. This report shall be confidential.

(11)~~[(10)]~~ Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common-law rights of parents.

(12) A minor upon whom an abortion is performed is not guilty of violating subsection (2) of this section.

➔Section 2. KRS 311.595 is amended to read as follows:

If the power has not been transferred by statute to some other board, commission, or agency of this state, the board may deny an application or reregistration for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;

(2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;

(3) Committed, procured, or aided in the procurement of an unlawful abortion, including a partial-birth abortion or an abortion in violation of KRS 311.731;

(4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if in accordance with KRS Chapter 335B;

(5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;

(6) Become addicted to a controlled substance;

(7) Become a chronic or persistent alcoholic;

(8) Been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine;

(9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;

(10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;

(11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;

(12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the

violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;

(13) Violated any agreed order, letter of agreement, final order, or emergency order issued by the board;

(14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;

(15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;

(16) Willfully violated a confidential communication;

(17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;

(18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;

(19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees

and moneys received by them or by the partnership, corporation, or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;

(20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action;

(21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action;

(22) Failed to comply with the requirements of KRS 213.101, 311.782, or 311.783 or failed to submit to the Vital Statistics Branch in accordance with a court order a complete report as described in KRS 213.101;

(23) Failed to comply with any of the requirements regarding making or maintaining medical records or documents described in KRS 311.7704 or 311.7707;

(24) Failed to comply with the requirements of KRS 311.7705 or 311.7706;~~[or]~~

(25) Been convicted of female genital mutilation under KRS 508.125, which shall result

in mandatory revocation of a license***; or***

(26) Failed to comply with the requirements of Section 1 of this Act.

➔Section 3. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of KRS 311.375(1) shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of KRS 311.375(2) shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under

provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) ***(a) Except as provided in subsection (12) of Section 1 of this Act, any person who intentionally or recklessly performs an abortion upon a minor without obtaining the required consent pursuant to Section 1 of this Act shall be guilty of a Class D felony.***

(b) Except as provided in paragraph (a) of this subsection, any person who~~[~~ ~~intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who]~~ intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(c)~~[(13)]~~ Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(13)~~[(14)]~~ Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(14)~~[(15)]~~ Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(15)~~[(16)]~~ Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(16)~~[(17)]~~ Any person who violates KRS 311.770 shall be guilty of a Class D felony.

(17)~~[(18)]~~ Except as provided in KRS 311.787(3), any person who intentionally violates KRS 311.787 shall be guilty of a Class D felony.

(18)~~[(19)]~~ A person convicted of violating KRS 311.780 shall be guilty of a Class C

felony.

(19) ~~[(20)]~~ Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.

(20) ~~[(21)]~~ Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.

(21) ~~[(22)]~~ Any person who violates KRS 311.7705(1) is guilty of a Class D felony.

(22) ~~[(23)]~~ Any person who violates KRS 311.7706(1) is guilty of a Class D felony.

(23) ~~[(24)]~~ Except as provided in KRS 311.731(7), any person who violates KRS 311.731(2) shall be guilty of a Class D felony.

(24) ~~[(25)]~~ Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(25) ~~[(26)]~~ Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(26) ~~[(27)]~~ Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(27) ~~[(28)]~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

(28) ~~[(29)]~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(29) ~~[(30)]~~ (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty

of a Class D felony.

(30) ~~[(31)]~~ Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(31) ~~[(32)]~~ Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(32) ~~[(33)]~~ Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(33) ~~[(34)]~~ Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(34) ~~[(35)]~~ Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

(35) ~~[(36)]~~ (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars ($100,000) for a first offense and not more than two hundred fifty thousand dollars ($250,000) for each subsequent offense.

(b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.

(36) ~~[(37)]~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the

board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.

(37) ~~[(38)]~~ Any person convicted of violating KRS 311.728 shall be guilty of a Class D felony.

(38) (a) A person who intentionally, knowingly, or recklessly violates Sections 5 to 11 of this Act is guilty of a Class D felony.

(b) No criminal penalty may be assessed against a pregnant patient upon whom a drug-induced abortion is attempted, induced, or performed.

➔Section 4. KRS 213.101 is amended to read as follows:

(1) (a) Each abortion as defined in KRS 213.011 which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution within fifteen (15) days after the end of the month in which the abortion occurred. If the abortion was performed outside an institution, the attending physician shall prepare and file the report within fifteen (15) days after the end of the month in which the abortion occurred.

(b) The report shall include***:***

1. All the information the physician is required to certify in writing or determine under KRS 311.731, ***Section 1 of this Act,*** 311.7704, 311.7705, 311.7706, 311.7707, 311.774, 311.782, and 311.783***; and*** ~~[,]~~

2. Verification of compliance with the certification requirement of KRS 311.727;

but shall not include information ***or verification*** which will identify the physician, woman, or man involved.

(c) If a person other than the physician described in this subsection makes or maintains a record required by ***Section 1 of this Act,*** KRS 311.7704,

311.7705, 311.7706, or 311.7707 on the physician's behalf or at the physician's direction, that person shall comply with the reporting requirement described in this subsection as if the person were the physician.

(2) Each prescription issued for RU-486, cytotec, pitocin, mifeprex, misoprostol, or any other drug or combination of drugs for which the primary indication is the induction of abortion as defined in KRS 213.011 shall be reported to the Vital Statistics Branch within fifteen (15) days after the end of the month in which the prescription was issued as required by KRS 311.774, but the report shall not include information which will identify the woman involved or anyone who may be picking up the prescription on behalf of the woman.

(3) The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.

(4) By September 30 of each year, the Vital Statistics Branch shall issue a public report that provides statistics on all data collected, including the type of abortion procedure used, for the previous calendar year compiled from all of the reports covering that calendar year submitted to the cabinet in accordance with this section for each of the items listed in subsections (1) and (2) of this section. Each annual report shall also provide statistics for all previous calendar years in which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The Vital Statistics Branch shall ensure that none of the information included in the report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted. Each annual report shall be made available on the cabinet's Web site.

(5) (a) Any person or institution who fails to submit a report by the end of thirty (30) days following the due date set in subsections (1) and (2) of this section shall be subject to a late fee of five hundred dollars ($500) for each additional thirty (30) day period or portion of a thirty (30) day period the report is overdue.

(b) Any person or institution who fails to submit a report, or who has submitted only an incomplete report, more than one (1) year following the due date set in subsections (1) and (2) of this section, may in a civil action brought by the Vital Statistics Branch be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

(c) Failure by any physician to comply with the requirements of this section, other than filing a late report, or to submit a complete report in accordance with a court order shall subject the physician to KRS 311.595.

(6) Intentional falsification of any report required under this section is a Class A misdemeanor.

(7) The Vital Statistics Branch shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in compliance with this section.

(8) (a) As a health oversight activity, the Office of the Inspector General, Cabinet for Health and Family Services, shall annually audit the required reporting of abortion-related information to the Vital Statistics Branch in subsections (1) and (2) of this section, and in so doing, shall function as a health oversight agency of the Commonwealth for this specific purpose.

(b) The Office of the Inspector General shall ensure that none of the information included in the audit report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted.

(c) If any personally identifiable information is viewed or recorded by the Office of the Inspector General in conducting an audit authorized by this subsection, the information held by the Inspector General shall not be subject to the Kentucky Open Records Act, shall be confidential, and shall only be released upon court order.

(d) The Inspector General shall submit a written report to the General Assembly and the Attorney General and present a report of findings in person to the Interim Joint Committee on Health, Welfare, and Family Services by October of each year. The reports shall include findings from:

1. The audit required in this subsection, including any identified reporting deficiencies; and

2. All abortion facility inspections, including any violations of KRS 216B.0431 and 216B.0435.

➔SECTION 5. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

As used in Sections 5 to 11 of this Act unless the context otherwise requires:

(1) "Abortion" has the same meaning as in KRS 311.720;

(2) "Abortion-inducing drug" means RU-486, cytotec, pitocin, mifeprex, misoprostol, or any other drug or combination of drugs for which the primary indication is the induction of abortion;

(3) "Adverse event" means any untoward medical occurrence associated with the use of a drug in humans, whether or not considered drug related;

(4) "Associated physician" means a physician who has entered into an associated physician agreement established in Section 16 of this Act;

(5) "Cabinet" means the Cabinet for Health and Family Services;

(6) "Complication" means any adverse physical or psychological condition arising from the performance of an abortion, including the reportable conditions listed in KRS 311.774(3);

(7) "Gestational age" has the same meaning as in KRS 311.7701;

(8) "Hospital" has the same meaning as in KRS 311.720;

(9) "Manufacturers and distributors" means individuals or entities that create, produce, supply, transport, or sell drugs, including:

(a) Any substances recognized by an official pharmacopoeia or formulary;

(b) Any substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease;

(c) Any substances, other than food, intended to affect the structure or any function of the body; and

(d) Any substances intended for use as a component of a medicine but not a device or a component, part, or accessory of a device;

(10) "Physician" has the same meaning as in KRS 311.720;

(11) "Pregnancy" or "pregnant" has the same meaning as in KRS 311.7701;

(12) "Provide" or "provision" means any act of giving, selling, dispensing, administering, transferring possession, delivering, transporting to, or otherwise providing or prescribing an abortion-inducing drug;

(12) "Qualified physician" means a physician who is credentialed and competent to:

(a) Identify and document a viable intrauterine pregnancy;

(b) Assess the gestational age of pregnancy and to inform the patient of gestational age-specific risks;

(c) Diagnose ectopic pregnancy;

(d) Determine blood type and administer RhoGAM if a woman is Rh negative;

(e) Assess for signs of domestic abuse, reproductive control, human trafficking, and other signals of coerced abortion;

(f) Provide surgical intervention or has entered into a contract with another qualified physician to provide surgical intervention; and

(g) Supervise and bear legal responsibility for any agent, employee, or contractor who is participating in any part of the procedure, including but not limited to pre-procedure evaluation and care; and

(13) "Unborn child" has the same meaning as in KRS 311.781.

➔SECTION 6. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED

TO READ AS FOLLOWS:

Abortion-inducing drugs shall only be provided to a pregnant person by a qualified physician following procedures established in Sections 7, 8, and 9 of this Act. It shall be unlawful for any manufacturer and distributor, physician, qualified physician, or any other person to provide any abortion-inducing drug to a pregnant person via courier, delivery, or mail service.

➔SECTION 7. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

(1) A qualified physician providing an abortion-inducing drug shall:

(a) Be credentialed and competent to handle complication management, including emergency transfer; or

(b) Have a signed contract with an associated physician who is credentialed to handle complications and produce that signed contract including the name and phone number of the associated physician, upon the request of the pregnant patient or the cabinet.

(2) A qualified physician providing an abortion-inducing drug shall examine the patient in person, and prior to providing an abortion-inducing drug, shall:

(a) Independently verify that a pregnancy exists;

(b) Determine the patient's blood type, and if the patient is Rh negative, offer to administer RhoGAM at the time of the abortion;

(c) Inform the patient that the remains of the unborn child may be visible in the process of completing the abortion; and

(d) Document, in the patient's medical chart, the gestational age and intrauterine location of the pregnancy, and whether the patient received treatment for Rh negativity, as diagnosed by the most accurate standard of medical care.

(3) (a) The qualified physician or an agent of the qualified physician providing any

abortion-inducing drug shall schedule a follow-up visit for the patient for approximately seven (7) to fourteen (14) days after administration of the abortion-inducing drug to confirm that the pregnancy is completely terminated and to assess any degree of bleeding.

(b) The qualified physician shall make all reasonable efforts to ensure that the patient returns for the scheduled appointment.

(c) A brief description of the efforts made to comply with this subsection, including the date, time, and identification by name of the person making such efforts, shall be included in the patient's medical record.

➔SECTION 8. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) An abortion-inducing drug shall not be provided to a pregnant patient without the informed consent of the patient. Informed consent shall be obtained at least twenty-four (24) hours before the abortion-inducing drug is provided to a pregnant patient, except if, in the reasonable medical judgment of the qualified physician, compliance with this subsection would pose a risk of:

(a) The death of the pregnant patient; or

(b) The substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the pregnant patient.

(2) A qualified physician shall use a form created by the cabinet to obtain the consent required prior to providing an abortion-inducing drug.

(3) A consent form is not valid and consent is not sufficient, unless:

(a) The patient initials each entry, list, description, or declaration required to be on the consent form;

(b) The patient signs the consent statement; and

(c) The qualified physician signs the qualified physician declaration.

(4) The consent form shall include but is not limited to the following:

(a) The probable gestational age of the unborn child as determined by both patient history and by ultrasound results used to confirm gestational age;

(b) A detailed description of the steps to complete the drug-induced abortion;

(c) A detailed list of the risks related to the specific abortion-inducing drug or drugs to be used, including potential adverse events and complications;

(d) Information about Rh incompatibility, including that if the pregnant patient has an Rh negative blood type, the patient should receive an injection of Rh immunoglobulin at the time of the abortion to prevent Rh incompatibility in future pregnancies, which may lead to complications and miscarriage in future pregnancies;

(e) That the risks of complications from a chemical abortion, including incomplete abortion, increase with advancing gestational age;

(f) That it may be possible to reverse the effects of the abortion-inducing drug if desired but that this should be done as soon as possible;

(g) That the patient may see the remains of the unborn child in the process of completing the abortion;

(h) That initial studies suggest that children born after reversing the effects of the abortion-inducing drug Mifeprex/mifepristone have no greater risk of birth defects than the general population;

(i) That initial studies suggest that there is no increased risk of maternal mortality after reversing the effects of the abortion-inducing drug Mifeprex/mifepristone;

(j) That information on and assistance with reversing the effects of abortion-inducing drugs are available in the state-prepared materials;

(k) An "acknowledgment of risks and consent statement" which the pregnant patient shall sign. The pregnant patient shall initial by each statement and

the statement shall include but is not limited to the following declarations:

1. That the pregnant patient understands that the abortion-inducing drug regimen or procedure is intended to end the pregnancy and will result in the death of the unborn child;

2. That the pregnant patient is not being forced to have an abortion, that the pregnant patient has the choice not to have the abortion, and that the pregnant patient may withdraw consent to the abortion-inducing drug regimen even after it has been provided;

3. That the pregnant patient understands that the abortion-inducing drug to be provided has specific risks and may result in specific complications;

4. That the pregnant patient has been given the opportunity to ask questions about the pregnancy, the development of the unborn child, alternatives to abortion, the abortion-inducing drug or drugs to be used, and the risks and complications possible when abortion-inducing drugs are provided;

5. That the pregnant patient was specifically told that information on the potential ability of qualified medical professionals to reverse the effects of a drug-induced abortion is available and where to obtain information for assistance in locating a medical professional that can aid in the reversal of a drug-induced abortion;

6. That the pregnant patient has been provided access to printed materials on informed consent for abortion;

7. If applicable, that the pregnant patient has been given the name and phone number of the associated physician who has agreed to provide medical care and treatment in the event of complications associated with the abortion-inducing drug regimen or procedure;

8. That the qualified physician will schedule an in-person follow-up visit for the patient for approximately seven (7) to fourteen (14) days after providing the abortion-inducing drug or drugs to confirm that the pregnancy is completely terminated and to assess any degree of bleeding and other complications;

9. That the pregnant patient has received or been given sufficient information to give informed consent to the abortion-inducing drug regimen or procedure; and

10. That the patient has a private right of action to sue the qualified physician under the laws of Kentucky if the patient feels coerced or misled prior to obtaining an abortion; and

(l) A qualified physician declaration that states that the qualified physician has explained the abortion-inducing drug or drugs to be provided, has provided all of the information required in paragraph (k) of this subsection, and has answered all of the woman's questions, shall be signed by the qualified physician.

➔SECTION 9. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) Each abortion-inducing drug provided to a pregnant patient shall be reported to the cabinet on a report form prepared by the cabinet. The report form shall be signed by the qualified physician who provided the abortion-inducing drug and transmitted to the cabinet within fifteen (15) days after the end of the month in which the drug was provided. Each report shall include at minimum the following:

(a) Identification of the qualified physician who provided the abortion-inducing drug;

(b) The location at which the abortion-inducing drug was provided;

(c) The referring physician, agency, or service, if any;

(d) The pregnant patient's county, state, and country of residence;

(e) The pregnant patient's age, race, and ethnicity;

(f) The number of previous pregnancies, number of live births, and number of previous abortions of the pregnant patient;

(g) The probable gestational age of the unborn child as determined by both patient history and by ultrasound results used to confirm the gestational age. The report shall include the date of the ultrasound and gestational age determined on that date;

(h) The abortion-inducing drug or drugs used and the date each was provided to the pregnant patient;

(i) A list of any pre-existing medical conditions of the pregnant patient that may complicate her pregnancy, if any;

(j) Whether the pregnant patient returned for a follow-up examination, the date and results of any such follow-up examination, and what reasonable efforts were made by the qualified physician to encourage the patient to reschedule a follow-up examination if the appointment was missed;

(k) Whether the woman suffered any complications or adverse events and what specific complications or adverse events occurred, and any follow-up treatment provided;

(l) The amount billed to cover the treatment for specific complications, including whether the treatment was billed to Medicaid, private insurance, private pay, or other method. This should include charges for any physician, hospital, emergency room, prescription or other drugs, laboratory tests, and any other costs for treatment rendered; and

(m) The reason for the abortion, if known.

(2) The reports shall not contain the following:

(a) The name of the pregnant patient;

(b) Common identifiers such as a Social Security number and motor vehicle operator's license number; and

(c) Any other information or identifiers that would make it possible to ascertain the patient's identity.

(3) If a qualified physician provides an abortion-inducing drug to a pregnant woman for the purpose of inducing an abortion, 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 adverse event, the qualified physician shall provide a written report of the adverse event within three (3) days of the event to the federal Food and Drug Administration via the Medwatch reporting system, the cabinet, and the Kentucky Board of Medical Licensure.

(4) Any physician, qualified physician, associated physician, or other healthcare provider who treats a patient, either contemporaneously to or at any time after a drug-induced abortion for an adverse event or complication related to the drug-induced abortion shall make a report of the adverse event or complication to the cabinet on a report form provided by the cabinet. The reports shall be completed and signed by the physician, qualified physician, or other healthcare provider who treated the adverse event or complication, and transmitted to the cabinet within fifteen (15) days after the end of the month in which the treatment was provided. Each report shall include at minimum the following:

(a) Identification of the qualified physician who provided the abortion-inducing drug;

(b) The location at which the abortion-inducing drug was provided;

(c) The referring physician, agency, or service, if any;

(d) The pregnant patient's county, state, and country of residence;

(e) The pregnant patient's age, race, and ethnicity;

(f) The number of previous pregnancies, number of live births, and number of previous abortions of the pregnant patient;

(g) The probable gestational age of the unborn child as determined by both patient history and by ultrasound results used to confirm the gestational age. The report shall include the date of the ultrasound and gestational age determined on that date;

(h) The abortion-inducing drug or drugs used and the date each was provided to the pregnant patient;

(i) A list of any pre-existing medical conditions of the pregnant patient that may complicate the pregnancy, if any;

(j) Whether the pregnant patient returned for a follow-up examination, the date and results of any such follow-up examination, and what reasonable efforts were made by the qualified physician to encourage the patient to reschedule a follow-up examination if the appointment was missed;

(k) The amount billed to cover the treatment for specific complications, including whether the treatment was billed to Medicaid, private insurance, private pay, or other method. This should include charges for any physician, hospital, emergency room, prescription or other drugs, laboratory tests, and any other costs for treatment rendered; and

(l) A list of specific complications or adverse events that occurred, a list of any emergency transfers and any follow-up treatment provided including whether any additional drugs were provided in order to complete the drug-induced abortion.

➔SECTION 10. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 5 to 11 of this Act shall be construed as creating or

recognizing a right to abortion.

(2) It is not the intention of Sections 5 to 11 of this Act to make lawful an abortion that is otherwise unlawful.

(3) Nothing in Sections 5 to 11 of this Act repeals, replaces, or otherwise invalidates existing federal or state laws, regulations, or policies.

(4) Nothing in Sections 5 to 11 of this Act or any state or federal laws to the contrary, abortion-inducing drugs shall not be provided in any school facility or on state grounds, including but not limited to elementary and secondary schools, and institutions of higher education in Kentucky.

➔SECTION 11. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the remedies available under the laws in this state, failure to comply with Sections 5 to 11 of this Act shall:

(a) Provide a basis for a civil malpractice action for actual and punitive damages;

(b) Provide a basis for a professional disciplinary action under KRS 411.167; and

(c) Provide a basis for recovery for a pregnant patient's survivors for the wrongful death of the patient under KRS 411.130.

(2) When requested, the court shall allow a patient to proceed using only the patient's initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the patient upon whom the drug-induced abortion was attempted, induced, or performed.

(3) If judgment is rendered in favor of the plaintiff, the court shall also render judgment for reasonable attorney's fees in favor of the plaintiff against the defendant.

(4) If judgment is rendered in favor of the defendant and the court finds that the

plaintiff's suit was frivolous and brought in bad faith, the court may render judgment for reasonable attorney's fees in favor of the defendant against the plaintiff.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall publish printed material and maintain on its Web site 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, and shall also include information for assistance in locating a medical professional who can aid in the reversal of a drug-induced abortion."

(2) On an annual basis, the cabinet shall review and update, if necessary, the statement required in subsection (1) of this section and shall also include information for assistance in locating a medical professional who can aid in the reversal of a drug-induced abortion.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall create and distribute the report forms required in Sections 8, 9, and 24 of this Act within sixty (60) days after the effective date of this Act.

(2) The cabinet shall prepare and submit a comprehensive annual statistical report to the General Assembly based upon the data gathered from reports required in Sections 8, 9, and 24 of this Act. The aggregated data shall also be made available to the public by the cabinet in an electronic format.

(3) Reports required in Sections 8, 9, and 24 of this Act shall be deemed public records and shall be provided by the cabinet to the Kentucky Board of Medical Licensure, the Kentucky Board of Pharmacy, state law enforcement offices, and child protective services upon request for use in the performance of their official

duties.

(4) Absent a valid court order or judicial subpoena, the cabinet, any other state department, agency, or office or any employees thereof shall not compare data concerning drug-induced abortion or drug-induced abortion adverse events or complications maintained in an electronic or other information system file with data in any other electronic or other information system, the comparison of which could result in identifying, in any manner or under any circumstances, a pregnant patient who is obtaining or seeking to obtain a drug-induced abortion.

(5) Statistical information that may reveal the identity of a pregnant person obtaining or seeking to obtain a drug-induced abortion shall not be maintained by the cabinet, any other state department, agency, or office, or any employee or contractor thereof.

(6) The cabinet shall communicate the reporting requirements in Sections 8, 9, and 24 of this Act to all medical professional organizations, licensed physicians, hospitals, emergency medical service providers, abortion facilities, ambulatory surgical facilities, and other healthcare facilities operating in Kentucky.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Pharmacy shall promulgate administrative regulations to create a certification program to oversee and regulate the distribution of abortion-inducing drugs as defined in Section 5 of this Act. The program shall be known as the Kentucky Abortion-Inducing Drug Certification Program. The program shall establish certification requirements for manufacturers and distributors as defined in Section 5 of this Act to transport, supply, or sell abortion-inducing drugs and qualified physicians as defined in Section 5 of this Act, to provide abortion-inducing drugs to pregnant patients. The certification requirements shall include recognition that abortion-inducing drugs may only be provided to patients by qualified physicians as

required in Section 6 of this Act and that abortion-inducing drugs may not be provided directly to a patient outside of the parameters of Kentucky's Abortion-Inducing Drug Certification Program.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Pharmacy shall, at a minimum:

(a) Require completion of the certification process for physicians, manufacturers, and distributors;

(b) Notify certified manufacturers and distributors which physicians are certified under the Kentucky Abortion-Inducing Drug Certification Program;

(c) Prohibit shipments of abortion-inducing drugs to physicians who become decertified from the program;

(d) Audit newly certified physicians, manufacturers, and distributors within ninety (90) calendar days after certification and annually thereafter, to ensure that all processes and procedures are in place and functioning to support the requirements of the Abortion-Inducing Drug Certification Program;

(e) Immediately suspend a physician's, manufacturer's, or distributor's certification if found to be noncomplaint until full compliance is demonstrated; and

(f) Enforce compliance and develop a compliance reporting system.

(2) To be eligible for certification, manufacturers and distributors of abortion-inducing drugs shall:

(a) Have either obtained a Kentucky license as a distributor or a Kentucky permit as a manufacturer;

(b) Only distribute to certified physicians;

(c) Abide by all applicable standards of the National Association of the Boards of Pharmacy (NABP);

(d) For online sales or orders, hold a current pharmacy or pharma domain and abide by all required standards by NABP to maintain the domain;

(e) Follow all other applicable state or federal laws related to the distribution or delivery of legend drugs, including abortion-inducing drugs; and

(f) Follow all acceptable processes and procedures to maintain a distribution or delivery system that is secure and confidential, and follows all processes and procedures, including those for storage, handling, shipping, tracking package serial numbers, proof of delivery, and controlled returns of abortion-inducing drugs.

(3) To be eligible for certification to provide abortion-inducing drugs a physician shall:

(a) Be licensed to practice medicine and in good standing in Kentucky;

(b) Examine any patient in-person prior to providing abortion-inducing drugs;

(c) Sign an annual "Dispensing Agreement Form," to be developed and provided by the board, prior to providing abortion-inducing drugs;

(d) Inform the patient of gestational age-specific risks of using abortion-inducing drugs;

(e) Assess for signs of domestic abuse, reproductive control, human trafficking, and other signals of coerced abortion, per current state guidelines;

(f) Inform the patient that studies show babies born following the abortion reversal process have a rate of birth defects no higher than the general population;

(g) Inform the patient that studies show that following a reversal process or otherwise treating a pregnant patient with progesterone during pregnancy does not lead to increased mortality rates;

(h) Refrain from knowingly supplying abortion-inducing drugs to patients who present with any of the following:

1. Absence of a pregnancy;

2. Being post-seventy (70) days gestation or post-ten (10) weeks of pregnancy;

3. Having risk factors, associated with abortion-inducing drugs, including but not limited to:

a. A history of ectopic pregnancies;

b. Problems with the adrenal glands near the kidneys;

c. Being treated with long-term corticosteroid therapy;

d. Allergic reactions to abortion-inducing drugs, mifepristone, misoprostol, or similar drugs;

e. Has bleeding problems or is taking anticoagulant drug products;

f. Has inherited porphyria;

g. Has an intrauterine device in place; or

h. Being Rh negative, requiring the administration of RhoGAM before providing abortion-inducing drugs;

(i) Provide or refer for emergency surgical intervention in cases of incomplete abortion, severe bleeding, or other medical complications, through maintaining hospital admitting privileges or entering into a written agreement with an associated physician as defined in Section 5 of this Act;

(j) Ensure patient access to medical facilities equipped to provide blood transfusions and resuscitation or other necessary treatments, if necessary;

(k) Sign, and ensure that the patient signs, all legally required informed consent material, provide the patient with a copy showing both signatures, and place the original in the patient's medical record;

(l) Record the serial number from each package of each abortion-inducing

drug given to the patient in the patient's medical record;

(m) Submit a written protocol of how efforts will be made to schedule a follow-up appointment with the patient within fourteen (14) days to ensure a completed abortion;

(n) Report to the Kentucky Board of Pharmacy, as well as the federal Food and Drug Administration, any deaths associated with abortion-inducing drugs with the following guidelines:

1. The patient shall be noted by a nonidentifiable reference and the serial number from each package of abortion-inducing drug given, whether or not considered drug-related;

2. The report shall be submitted as soon as possible but no later than fifteen (15) calendar days from the initial receipt of the information by the physician; and

3. This reporting requirement shall not release the physician's other reporting and follow-up requirements under the abortion-inducing drugs certification program or any additional physician reporting requirements;

(o) Submit a written protocol of how complications will be handled by the certified physician and submit a copy of a signed contract with an associated physician credentialed to handle certain complications if necessary;

(p) Abide by all applicable state and federal laws regarding medical records retention, confidentiality, and privacy; and

(q) Agree to follow and document compliance with all other legally required conditions for performing an abortion in Kentucky.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Pharmacy shall require the following of physicians certified by the Kentucky Abortion-Inducing Drug Certification Program:

(1) Maintain hospital admitting privileges at one (1) or more hospitals in the county or contiguous county where abortion-inducing drugs will be provided and inform the patient of the hospital or hospitals where the physician holds admitting privileges; or

(2) Enter into a written associated physician agreement as required in Section 7 of this Act, with a physician in the county or contiguous county where abortion-inducing drugs will be provided. The written agreement shall meet these conditions:

(a) A physician who will be providing an abortion-inducing drug shall notify the patient of the location of the hospital at which the associated physician has admitting privileges;

(b) The physician shall keep, at the location of his or her practice, a copy of the written agreement;

(c) The board shall annually submit a copy of the written agreement to each hospital located in the county or a county that is contiguous to the county where abortion-inducing drugs will be provided;

(d) The agreement shall be renewed annually; and

(e) The agreement shall include a requirement that the physician provide to the patient, and require the patient to sign, all legally required informed consent material.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Pharmacy shall develop a plan to enforce the Kentucky Abortion-Inducing Drug Certification Program that includes the following conditions:

(a) If an individual or entity provides abortion-inducing drugs without first seeking certification, the board shall:

1. Immediately report the act to local law enforcement, or other applicable state and local agencies; and

2. Impose a fine of no less than five million dollars ($5,000,000) for manufacturers or distributors and two hundred fifty thousand ($250,000) for physicians;

(b) If a certified manufacturer, distributor, or physician is determined to be in noncompliance, suspend any certification until compliance is proven to the satisfaction of the board;

(c) If a current or previously certified manufacturer or distributor is found to have intentionally or knowingly violated certification requirements, or refuses to bring operations into compliance within ninety (90) calendar days, remove certification and prohibit continued provision of abortion-inducing drugs by the manufacturer or distributor until compliance is demonstrated to the satisfaction of the board;

(d) If a certified manufacturer, distributor, or physician is in non-compliance, suspend all annual recertifications until compliance is demonstrated to the satisfaction of the board; and

(e) If a current or previously certified manufacturer, distributer, or physician is found to have intentionally or knowingly violated Sections 14, 15, or 16 of this Act, or refuses to bring operations into compliance:

1. Immediately suspend the manufacturer's, distributor's, or physician's certification until full compliance is demonstrated;

2. For certified manufacturers or distributors, impose fines of not less than one million dollars ($1,000,000) per offense;

3. For certified physicians, impose fines of not less than one hundred

thousand dollars ($100,000) per offense;

4. Permanently revoke the certification of the offender if the offender fails to demonstrate compliance within ninety (90) calendar days;

5. Impose remedial actions, which may include additional education, additional reporting, or other actions as required by the board;

6. In the case of a licensed manufacturer or distributor, recommend sanctioning to the appropriate disciplinary committee of the board;

7. In the case of a licensed physician, report the violation to the Kentucky Board of Medical Licensure;

8. Publicly report any disciplinary actions, consistent with the practices of the board;

9. Permanently revoke the certification of the offender;

10. In the case of a licensed manufacturer or distributor, recommend permanent revocation of licensure; and

11. In the case of a licensed physician, recommend appropriate sanctioning to the Kentucky Board of Medical Licensure.

(2) Individuals have a private right of action to seek restitution in any court of law with appropriate jurisdiction for any and all damages suffered for violating Sections 14, 15, or 16 of this Act.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Pharmacy shall develop, on its Web site, a complaint portal for patients, pharmacy, nursing, and medical professionals, and the public to submit information about potential violations of the Kentucky Abortion-Inducing Drug Certification Program.

(2) The portal shall list the names of manufacturers and distributors that are certified under the program and the physicians that are certified under the

program.

(3) An individual shall be allowed to make a complaint anonymously on the portal.

(4) The board shall review each complaint and determine a disposition, including referral to another state department, within thirty (30) days.

(5) Confidentiality of the originator of the complaint shall be protected at all times except for intrastate referrals for investigation.

➔Section 19. KRS 213.081 is amended to read as follows:

(1) No person shall cremate or cause to be transported for the purpose of cremation the body of any person whose death occurs in the Commonwealth, without first obtaining from the coroner of the county in which the death occurred, a permit stating the cause of death and authorizing the cremation or transportation for cremation of the body. The permit shall be filed immediately following cremation with the local registrar of vital statistics.

(2) ~~[The provisions of this section shall not apply to the cremation of]~~Fetal death remains ***shall:***

(a) Require the same permit required by subsection (1) of this section; and

(b) Not be incorporated into simultaneous cremations or the cremation of multiple fetal remains at the same time and location~~[in the absence of any indication of a criminal act]~~.

➔Section 20. KRS 213.096 is amended to read as follows:

(1) Each fetal death of twenty (20) completed weeks' gestation or more, calculated from the date last normal menstrual period began to the date of delivery or in which the fetus weighs three hundred fifty (350) grams or more, ***or an abortion*** which occurs in the Commonwealth, shall be reported on a combination birth-death or stillbirth certificate in accordance with applicable provisions of KRS 213.046 and KRS 213.076. If the fetal death ***or abortion*** occurs in a hospital, the person in charge of the institution or the person's designated representative shall complete the ***birth-***

death or stillbirth certificate, obtain the medical certification, and file the certificate with the state registrar.

(2) The name of the father shall be entered on the ***birth-death or*** stillbirth certificate in accordance with the provisions of KRS 213.046.

(3) All abortions shall ***also*** be reported in the manner prescribed in KRS 213.101~~[and shall not be reported as stillbirths]~~.

➔SECTION 21. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "fetal remains" means the biological remains of a human child resulting from the termination of a pregnancy by a surgical or chemical abortion prior to birth.

(2) (a) Within twenty-four (24) hours before a surgical or chemical abortion, the healthcare facility or abortion clinic shall disclose to the parent or parents of the fetus, both orally and in writing, the parents' right to determine if they will take responsibility for the final disposition of the fetal remains or relinquish the responsibility for final disposition to the healthcare facility or abortion clinic.

(b) If the procedure is a chemically induced abortion, the mother:

1. Shall be informed that she will expel a fetus after leaving the healthcare facility or abortion clinic;

2. May choose to return the fetal remains to the healthcare facility or abortion clinic for final disposition; and

3. Shall be exempted from the requirements of Section 1 of this Act requiring a permit for the purpose of transporting the fetal remains back to the healthcare facility or abortion clinic for final disposition.

(c) After receiving the information required by paragraphs (a) and (b) of this subsection, the parent or parents of the fetus shall inform the health care

facility or abortion clinic of their choice for the disposition of the fetal remains by electing to either:

1. Relinquish the guardianship of the fetal remains and the responsibility for final disposition of those remains to the guardianship of the healthcare facility or abortion clinic which shall dispose of those remains as they would any other human remains; or

2. Retain the guardianship for the fetal remains and designate that fetal remains shall be released to the parent or parents for disposition.

The healthcare facility or abortion clinic shall document the parents' decision in the medical record.

(3) The cabinet shall design and promulgate forms through administrative regulations that document:

(a) The age of the parent or parents of the fetal remains;

(b) In the event that the parents are under eighteen (18) years of age, or have not been emancipated by court order, a consent by their parent or guardian;

(c) A designation of how the fetal remains shall be disposed of and who shall be responsible for the final disposition; and

(d) Any other information required by the cabinet.

(4) A person or entity shall not:

(a) Dispose of a fetus or fetal remains as medical or infectious waste;

(b) Offer money or anything of value for an aborted fetus or fetal remains;

(c) Accept money or anything of value for an aborted fetus or fetal remains; or

(d) Transport, or arrange for the transportation of, fetal remains for any purpose other than:

1. Final disposition by a crematory licensed under KRS Chapter 367;

2. Interment by a funeral establishment licensed under KRS Chapter 316; or

3. Interment by the parent or parents privately in conformance with KRS 381.697 and administrative regulations promulgated by the Cabinet for Health and Family Services.

➔Section 22. KRS 367.97501 is amended to read as follows:

As used in KRS 367.97501 to 367.97537, unless the context requires otherwise:

(1) "Authorizing agent" means the person legally entitled to order the cremation of the human remains.

(2) "Casket" means a rigid container which is designed for the encasement of human remains constructed of wood, metal, or other material.

(3) "Closed container" means a sealed container or urn in which cremated remains are placed and enclosed in a manner that prevents leakage or spillage of cremated remains or the entrance of foreign material.

(4) "Cremated remains" means the fragments remaining after the cremation process has been completed.

(5) "Cremation" means the heating process that reduces human remains to bone fragments through combustion and evaporation.

(6) "Cremation authorization form" means a form promulgated by administrative regulation of the Attorney General that expresses consent to the decedent's cremation. The form shall include information concerning the parties' rights and responsibilities.

(7) "Cremation chamber" means an enclosed space designed and manufactured for the purpose of cremating human remains.

(8) "Cremation container" means a container in which human remains may be delivered to a crematory for cremation that is:

(a) Rigid enough to support the weight of the corpse, closed, and leakproof;

(b) Composed of a combustible material or other material approved by the crematory authority; and

(c) A proper and dignified covering for the human remains.

(9) "Crematory authority" means the legal entity which is licensed by the Attorney General to operate a crematory and conduct cremations. Crematory authority does not include state university health science centers.

(10) "Crematory" means a fixed building or structure that contains one (1) or more cremation chambers for the reduction of bodies of deceased persons to cremated remains. "Crematory" includes crematorium.

(11) "Crematory operator" means the person in charge of a licensed crematory authority.

(12) "Declaration" has the same meaning as in KRS 367.93101.

(13) "Holding facility" means an area designated for the retention of human remains prior to cremation.

(14) "Human remains" means the body of a deceased person or part of a body or limb that has been removed from a living person, in any state of decomposition, prior to cremation.

(15) "Pathological waste" means human tissues, organs, and blood or body fluids, in liquid or semiliquid form that are removed from a person for medical purposes. "Pathological waste" does not include amputations ***or fetal remains as defined by Section 21 of this Act***.

(16) "Processed remains" means the end result of pulverization, by which the residual from the cremation process is reduced and cleaned leaving only fragments reduced to unidentified dimensions.

(17) "Retort operator" means a person operating a cremation chamber.

(18) "Scattering area or garden" means an area which may be designated by a cemetery and located on a dedicated cemetery property where cremated remains which have been removed from their container can be mixed with or placed on top of the soil or ground cover.

(19) "Temporary container" means a receptacle for cremated remains, usually made of

plastic, cardboard, ceramics, plastic film, wood, or metal, designed to prevent the leakage of processed remains or the entrance of foreign materials which will hold the cremated remains until an urn or other permanent container is acquired.

➔Section 23. KRS 311.715 is amended to read as follows:

(1) ***As used in this section, "public agency funds" means any money, regardless of the original source of the money, of a public agency.***

(2) Public agency funds shall not be used for the purpose of obtaining an abortion or paying for the performance of an abortion. Public medical facilities may be used for the purpose of conducting research into or the performance of in-vitro fertilization as long as such procedures do not result in the intentional destruction of a human embryo.

(3) Public agency funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that performs, induces, refers for, or counsels in favor of abortions. This subsection shall not apply to funding available through KRS 205.510 to 205.560 to the minimum extent necessary to comply with federal conditions for the state's participation in the program established by KRS 205.510 to 205.560 or to funding that is used to provide abstinence education in schools.

(4)~~[(2)]~~ (a) Public agency funds shall not be directly or indirectly used, granted, paid, or distributed to any nonpublic entity or organization described in paragraph (b)3. of this subsection. This paragraph shall not apply to funding available through KRS 205.510 to 205.560 to the minimum extent necessary to comply with federal conditions for the state's participation in the program established by KRS 205.510 to 205.560 or to funding that is used to provide abstinence education in schools.

(b) Notwithstanding any other state law to the contrary, all federal family planning funds shall be awarded to eligible individuals, organizations, or

entities applying to be family planning contractors in the following order of descending priority:

1. Public agencies that directly provide family planning services, including state, county, and local community health clinics and federally qualified health centers;
2. Nonpublic entities that directly provide basic health services, as described in 42 U.S.C. sec. 254b(b)(1)(A), including family planning services; and
3. Nonpublic entities that directly provide only family planning services but do not provide all basic health services as described in 42 U.S.C. sec. 254b(b)(1)(A).

(c) This subsection shall be effective upon repeal of federal regulations prohibiting states from prioritizing recipients of federal Public Health Service Act, Title X Family Planning Program funds.

(5) ~~[(3)]~~ Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(6) ~~[(4)]~~ Nothing in this section shall be construed to allow public funds to pay for in-vitro fertilization procedures performed on any individual patient.

➔SECTION 24. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) A hospital, healthcare facility, or individual physician shall file a written report with the cabinet regarding each patient who comes under the hospital's, healthcare facility's, or physician's care and reports any complication, requires medical treatment, or suffers a death that the attending physician, hospital staff, or facility staff has reason to believe is a primary, secondary, or tertiary result of an abortion. The reports shall be completed by the hospital, healthcare facility, or attending physician who treated the patient, signed by the attending physician,

and transmitted to the cabinet within thirty (30) days of the discharge or death of the patient treated for the complication.

(2) Each report of a complication, medical treatment, or death following abortion required under this section shall contain at minimum the following information:

(a) The age, race, and ethnicity of the patient;

(b) The patient's state and county of residence;

(c) The number of previous pregnancies, number of live births, and number of previous abortions of the patient;

(d) The date the abortion was performed, as well as the reason for the abortion and the method used, if known;

(e) Identification of the physician who performed the abortion, the facility where the abortion was performed, and the referring physician, agency, or service, if any; and

(f) The specific complications that led to the treatment, including but not limited to failure to actually terminate the pregnancy, missed ectopic pregnancy, uterine perforation, cervical perforation, incomplete abortion (retained tissue), bleeding, infection, hemorrhage, blood clots, cardiac arrest, respiratory arrest, pelvic inflammatory disease, damage to pelvic organs, endometriosis, renal failure, metabolic disorder, shock, embolism, free fluid in the abdomen, acute abdomen, adverse reaction to anesthesia or other drugs, hemolytic reaction due to the administration of ABO-incompatible blood or blood products, hypoglycemia where onset occurs while the patient is being cared for in the abortion facility, physical injury associated with therapy performed in the abortion facility, coma, death, and psychological or emotional complications, including but not limited to depression, suicidal ideation, anxiety, and sleep disorders.

(3) The amount billed to cover the treatment of the specific complications, including

whether the treatment was billed to Medicaid, insurance, private pay, or other method. This should include charges for any physician, hospital, emergency room, prescription or other drugs, laboratory tests, and any other costs for the treatment rendered.

(4) Reports required under this subsection shall not contain:

(a) The name of the patient;

(b) Common identifiers such as Social Security number or motor vehicle operator's license number; or

(c) Other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a patient who has obtained an abortion and subsequently suffered an abortion-related complication.

➔SECTION 25. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky, by resolution, may appoint one (1) or more of its members, who sponsored or cosponsored this Act in his or her official capacity, to intervene as a matter of right in any case to which the constitutionality of this Act is challenged.

➔SECTION 26. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

Any provision of Sections 1 to 24 of this Act held to be invalid or unenforceable by its terms or as applied to any person or circumstance shall be construed so as to give it the maximum effect permitted by law, unless the holding is one of utter invalidity or unenforceability, in which case the provision shall be deemed severable and shall not affect the remainder of Sections 1 to 24 of this Act, or the application of the provision to other persons not similarly situated or to other, dissimilar circumstances.

➔Section 27. Whereas the Commonwealth of Kentucky has a paramount interest in protecting all human life, an emergency is declared to exist, and this Act takes effect

upon its passage and approval by the Governor or upon its otherwise becoming law.