

PREGNANCY TERMINATION BILL

GENERAL PROVISIONS

Article 1

This Law regulates the requirements for the performance of pregnancy termination, the approval procedure for termination of pregnancy, the conditions which need to be met by health institutions to conduct the procedure for termination of pregnancy, as well as the supervision over the conditions and the procedure for termination of pregnancy.

Article 2

Termination of pregnancy constitutes a specific medical intervention for the performance of which the pregnant woman decides of her own free will.

The right to terminate pregnancy can only be limited for the purpose of protecting the health and life of the pregnant woman.

REQUIREMENTS FOR CONDUCTING TERMINATION OF PREGNANCY

Article 3

For the purpose of protecting the health of the pregnant woman, termination of the pregnancy can be carried out for up to ten weeks from the date of conception with a written consent from the pregnant woman.

In instances when the pregnant woman is a minor or is legally incapacitated, termination of the pregnancy can be carried out for up to ten weeks from the conception date with a written consent from the parent or the guardian of the pregnant woman.

The written consent from Paragraphs 1 and 2 of this Article is stated in a manner and form prescribed in the regulations concerning the protection of patient's rights.

The termination of pregnancy cannot be carried out prior to the expiration of ten weeks from the conception date if it is deemed particularly detrimental to the health of the pregnant woman.

The termination of pregnancy cannot be carried out within one year of the termination of a previous pregnancy.

Article 4

As an exception to Article 3 Paragraphs 1, 2 and 4 of this Law, termination of pregnancy can be carried out following the tenth week from the conception date, as well as prior to the expiration of the period of one year from the termination of a previous pregnancy, at the request and with the written consent of the pregnant woman in the following cases:

- When based on medical indications, it is determined that the pregnancy represents a risk to the life or may lead to serious deterioration of the health of the woman during her pregnancy, childbirth or following the childbirth.

- When based on scientific findings it can be expected that the child shall be born with serious physical or mental disabilities,

- When the conception has been the result of a criminal act: rape, statutory rape of a helpless person, sexual abuse of a child, sexual misconduct through misuse of position of authority or incest, and

- When it is determined that during pregnancy or after childbirth the woman may face grave personal, family, material or any other circumstances that may be detrimental to her health.

The grave personal, family, material or other circumstances from Paragraph 1 Item 4 of this Article are considered to be: seriously deteriorated marital and family relations, existence

of asocial occurrences in the family, difficult housing conditions, lack of financial means, health problems of family members and the number of children in the family.

The termination of pregnancy from Paragraph 1 of this Article shall be carried out if it is assessed that the termination of pregnancy shall not lead to serious health issues or to immediate risk to the life of the pregnant woman, accompanied by the written consent from Article 3 Paragraph 3 of this Law.

PROCEDURE FOR APPROVAL AND PERFORMANCE OF THE TERMINATION OF PREGNANCY

Article 5

The procedure for approval and performance of the termination of pregnancy shall ensure the respecting of the dignity of the woman, her right to privacy, information, consent to and rejection of the medical intervention, as well as the confidentiality of personal and medical information in accordance with the regulations on the protection of patient's rights.

Article 6

In order to terminate the pregnancy up to the tenth week, the pregnant woman shall submit to the health institution a written request which form and content is prescribed by the Minister of Health.

The pregnant woman, along with the request from Paragraph 1 of this Article, has to submit the findings from an ultrasonographic examination, as well as medical and any other required documentation stipulated in Article 9 Paragraph 3 of this Law.

Prior to the termination of pregnancy, the doctor is obliged to conduct counseling with the pregnant woman about the possible advantages to the continuation of the pregnancy, as well as about the risks to the health and life of the woman from conducting or not conducting the intervention for terminating the pregnancy, the methods of pregnancy termination and to inform her of the possibilities and methods for prevention of pregnancy.

The content and manner of the counseling from Paragraph 3 of this Article is prescribed by the Minister of Health with a special act.

If the pregnant woman after receiving all this information does not withdraw her request, she is obliged to provide a written statement of consent and acceptance for the conducting of the intervention for termination of pregnancy in accordance with Article 3 Paragraph 3 of this Law.

If the conditions from Article 6 of this Law are met, then the doctor can carry out the termination of the pregnancy.

Termination of the pregnancy cannot be conducted before the expiration of 3 days from the counseling from Paragraph 2 of this Article, unless the woman is a minor, a woman with abrogated or limited legal incapacity, or if there is a justified medical indication which has to be properly recorded by the doctor in the medical documentation and records.

With regards to the performed intervention from Paragraph 6 of this Article, the doctor has to register it in his ledger, while the data about the performed intervention are recorded in the medical file of the pregnant woman in written and electronic form, pursuant to the regulations on the protection of patient's rights.

Article 7

If the doctor determines that the termination of the pregnancy is not feasible due to the health condition of the pregnant woman, or that termination of the pregnancy shall jeopardize the life and health of the women, or that more than ten weeks have passed since the conception date, then he or she is obliged to refer the pregnant woman to the first instance commission for approval of the termination of pregnancy.

The first instance commission for termination of pregnancy is formed by the Minister of Health for each health institution where termination of pregnancy is performed.

The costs of the work of the first instance commission are covered by the health institution where it is established.

The appeals to the decisions of the first instance commission are decided before the second instance commission.

Article 8

The second instance commission is formed by the Minister of Health on the level of the Republic of Macedonia.

The Commissions from Article 7 Paragraph 1 of this Law and from Paragraph 1 of this Article (hereinafter referred to as: commissions) are established for a mandate of two years and are comprised of three members – a doctor specialized in gynecology and obstetrics, doctor specialized in internal medicine and a social worker. Each member of the commissions shall also be appointed a deputy.

The members of the second instance commission cannot be persons who are members of a first instance commission for pregnancy termination, while members of a first instance commission cannot be persons who are members of the second instance commission.

The costs for the work of the second instance commission shall be covered by the Ministry of Health.

The president of the commissions from paragraph 2 of this Article by rule should be a doctor specialized in gynecology and obstetrics who is a member of the commission.

The commissions shall have a secretary who will be appointed when the commission is established and who shall not be a member of the commission.

The procedure before the first and second instance commission shall be deemed urgent.

Article 9

The pregnant woman shall submit a request for termination of pregnancy in writing to the first instance commission.

If the pregnant woman is a minor or is legally incapacitated, the request shall be submitted, or consent be provided for termination of pregnancy, by the parent or guardian of the pregnant woman.

The request for termination of pregnancy shall be accompanied by medical and other relevant documentation, such as:

- certificate from a doctor specialized in gynecology and obstetrics that the woman is pregnant, that she is informed about the possible advantages to the continuation of the pregnancy, as well as about the risks to the health and life of the woman from conducting or not conducting the intervention for terminating the pregnancy, the methods of pregnancy termination and of the possibilities and methods of prevention of pregnancy.

- Findings and opinion of a doctor specialized in a relevant branch of medicine encompassing the ailment of the pregnant woman, or the ailment of the parent in the cases from Article 4 Paragraph 1, Items 1 and 2 of this Law, certificate from the competent public prosecutor that criminal procedure has been initiated in cases stipulated in Article 4 Paragraph 1 Item 3 of this Law, or a certificate from the Center for social work or a health institution if termination of the pregnancy is requested due to the reasons stated in Article 4 Paragraph 1 Item 4 of this Law.

Article 10

The pregnant woman and if married her spouse, or if the pregnant woman is a minor or if legally incapacitated, then her parent or guardian shall attend at their request or at request of the first instance commission the session of the first instance commission when the request for termination of the pregnancy shall be reviewed.

Article 11

During the procedure based on the request for termination of pregnancy, the President of the first instance commission is obliged to inform the pregnant woman, as well as the parent or guardian of the pregnant woman in the cases from Article 9 Paragraph 2 of this Law , about the possible advantages to the continuation of the pregnancy , as well as about the risks to the health and life of the woman from conducting or not conducting the intervention for terminating the pregnancy, the methods of pregnancy termination and of the possibilities and methods of prevention of unwanted pregnancy, to inform her about the existing health institutions where she can seek advice about pregnancy prevention, as well as all other useful information relevant in deciding upon the request for termination of pregnancy.

If the first instance commission determines in favor of termination of the pregnancy, it is then mandated to request written statement of consent from the pregnant woman for the performance of the termination, or if the pregnant woman is a minor or legally incapacitated also a written statement of consent for termination of pregnancy from her parent or guardian.

Article 12

The working sessions of the commissions have to be attended by all members and decisions are made with a majority of the votes of the overall number of members of the commission.

The commissions are obliged to decide within three days as follows: the first instance commission from the day of the submission of the request for termination of pregnancy, while the second instance commission shall decide after the filing of the case based on the appeal of the pregnant woman.

If the deadline from Paragraph 2 of this Article cannot be met due to justifiable reasons which are assessed by the commissions, the deadline for making a decision cannot be longer than seven days.

Article 13

Termination of the pregnancy can be conducted without a decision by the commissions, if due to an immediate danger to the life and health of the pregnant woman there is no possibility to wait for the said decision, or if the termination of the pregnancy has already commenced.

The doctor who has conducted or completed a termination of pregnancy without a decision by the commission is mandated to inform the director of the health institution within 24 hours, while the director is obliged to inform the first instance commission within three days about the given case.

Article 14

The pregnant woman, and in the cases from Article 9 Paragraph 2 of this Law also her parent or guardian , is notified of the decision of the first instance commission immediately after the completion of the session of the commission.

An appeal against the decision of the first instance commission can be lodged immediately in the minutes or in writing within three days of the notifying of the decision.

The minutes containing the appeal, together with all other documents, are submitted without any undue delay to the second instance commission.

The decision of the second instance commission is final.

Article 15

The doctor has to keep records of all termination of pregnancy interventions in his official ledger , as well as the commissions have to keep minutes of all their sessions and a ledger, both in written and electronic form.

The health institution is obliged to maintain all documentation related to the work of the doctor on pregnancy termination interventions, as well as of the work of the commission as confidential medical documentation in specially designated archive of the health institution.

Article 16

The manner of the work of the doctor, as well as the manner of the work of the first and second instance commissions, the form and content of the minutes and the ledger from Article 6 Paragraph 8 and from Article 15 Paragraph 1 of this Law are prescribed by the Minister of Health. Article 17

Article 17

The health institution where the commissions are established is obliged by the end of January at the beginning of the current year to submit a report about its work in the previous year to the Minister of Health.

Article 18

Following the performance of the termination of the pregnancy, the health institution and the doctor are obliged to ensure the conducting or to conduct medical supervision of the women for at least three days after the termination of the pregnancy.

The health institution and the doctor who performed the termination of the pregnancy are mandated to put under special medical supervision and control all women after their first termination of pregnancy, while if the pregnant women in question are minors they should be put under special medical care during the termination of the pregnancy, as well as through the whole process of informing, support and counseling.

The health institution and doctor performing the termination of pregnancy are obliged to provide Rh-negative women , if so medically indicated, with anti-D gammaglobulin after each pregnancy termination in order to prevent any consequences from the termination of the pregnancy.

REQUIREMENTS FOR HEALTH INSTITUTIONS PERFORMING TERMINATION OF PREGNANCY

Article 19

Termination of the pregnancy can be carried out in a hospital health institution which includes a gynecological and obstetrics ward which meets the requirements concerning premises, staff and equipment in accordance with health care regulations and which has been approved by the Ministry of Health to perform activities related to termination of pregnancy.

The Minister of Health shall prescribe the medical work protocol which shall contain all required medical examinations, including an ultrasonographic examination prior and after terminating the pregnancy, as well all procedures related to the conducting of the termination of pregnancy.

Article 20

The health institution is obliged to ensure that the pregnancy termination procedure is performed by a team comprising of a doctor specialized in gynecology and obstetrics and a medical nurse.

As an exception to Paragraph 1 of this Article, a doctor undergoing specialization in gynecology and obstetrics can perform a procedure for termination of pregnancy under the supervision of a doctor specialist in gynecology and obstetrics as stipulated in the requirements for involving a patient in medical education which are regulated by the relevant regulations for the protection of patient's rights.

OTHER PROVISIONS FOR TERMINATION OF PREGNANCY

Article 21

The health institution, in order to conduct terminations of pregnancy, is obliged to:

- Form a commission for health care quality control which will carry out continuous monitoring, assessment and improvement of the quality of medical interventions for termination of pregnancy in the interest of ensuring the safety of pregnant women in the health institution and improvement of their health,
- Organize mandatory counseling through providing adequate information services (brochures, leaflets, posters, etc.), support and counseling of the pregnant woman and her spouse, as well as her parent or guardian about the possible harm to the woman's health from termination of the pregnancy and informing them about the options and methods for pregnancy prevention. The counseling should also involve psycho-social support of the pregnant women in cooperation with specialized health institutions, as well as the centers for social work,
- Give recommendations concerning the adequate health care of the pregnant woman after the termination of the pregnancy in collaboration with the given doctor until the full recovery of the pregnant woman from the medical intervention for termination of the pregnancy.
- Gynecological and obstetrics health institutions from the primary health care, especially in the rural areas are required to pay continuous attention to women in the generative period through active work and counseling and providing appropriate information services (brochures, leaflets, posters, etc.), promoting the advantages of the use of contraceptives and methods for prevention of unwanted pregnancy, as well as the harmful consequences of pregnancy termination for the health and life of the women as relevant factors in family planning.

The Commission for quality control of health care from Paragraph 1 indent 1 of this Article consists of three members: the medical director, who at the same time is the president of the commission, and two members from the ranks of the health workers in the health institution which are appointed by the medical director for a period of three years.

The Commission for quality control of health care from Paragraph 1 indent 1 of this Article shall adopt a Rulebook which regulates the work of the commission.

Article 22

For the purpose of comprehensive and timely informing of women and men with the consequences that may arise from termination of the pregnancy and the means for pregnancy prevention:

- public health institutions – health centers through the services for preventive health protection and the multifunctional patronage services, the social protection institutions and the Institute for mother and child protection, the educational institutions, as well as the health care institutions are obliged as part of their competences to include in their work programs all issues pertaining to the raising of awareness of women , men and youth about the harmful consequences from termination of pregnancy and the advantages of the use of means and methods of contraception,
- educational institutions are required to include program activities to inform and educate the youth on the issue of humane and healthy gender relations.

Article 23

In cases of completion of a previously started termination of pregnancy, when there are grounds to suspect that a criminal act has been committed by initiating the termination of pregnancy which is completed in a health institution, then the director of the health institution where the initiated termination is completed has to file a report immediately to the competent public prosecutor's office and to inform the Ministry of Health – the State Sanitary and Health Inspectorate.

Article 24

The health institution which has performed or completed an already initiated termination of pregnancy is obliged for each case of death of a pregnant woman to inform the Ministry of Health – the State Sanitary and Health Inspectorate and the Ministry of Internal Affairs.

SUPERVISION

Article 25

For the purpose of ensuring the application of this Law and the regulations adopted based on this Law, as well as ensuring the safety of pregnant women during termination of pregnancy, the health institutions and the first and second instance commissions have to carry out:

- Supervision of the legality of their work,
- Supervision of their professional work,
- Internal supervision of their professional work and
- Inspection supervision.

Article 26

Supervision of the legality of the regular and professional work of the health institution and the first and second instance commissions is carried out by the Ministry of Health in accordance with the relevant health care regulations.

Article 27

The health institution shall organize internal supervision of the professional work of its health workers in a manner stipulated by the general act of the health institution.

Article 28

Inspection supervision of the application of this law is carried out by the State Sanitary and Health Inspectorate.

The inspector is authorized during the inspection to:

- Issue a ban on conducting activities, or ban the use of the facility where the activity is conducted if it does not own a work license, or does not meet any of the required conditions for conducting the activity,
- Order the establishment and keeping of records stipulated by this Law and all regulations adopted on the basis of this Law,
- Order the removal of all defects or irregularities in accordance with the law and other regulations which regulate the health protection of citizens,
- Order the adequate documenting and keeping of the relevant data and to ensure the security of the data acquired during the conducted procedures, and
- Order the health institution to prepare reports which is obliged to submit to the Ministry of Health

Article 29

The inspector is required to prepare minutes which include report about the conducted inspection, the acquired information and report on the factual situation.

If the inspector determines non-compliance with the laws, regulations and other general acts, he or she shall issue a decision which orders the implementation of specific measures from Article 28 Paragraph 2 of this Law within a certain deadline determined by the inspector.

The inspector is required to also submit a copy of the minutes and the decision to the health institution which was subject to the inspection supervision.

Article 30

During the carrying out of the inspection supervision, the inspector has to act in accordance with the regulations governing the general administrative procedure and inspection supervision, unless it is otherwise stipulated by this Law.

Article 31

In cases when immediate danger to the life and health of people is detected, the inspector shall issue an oral order for urgent and immediate removal of the defects which is registered in the minutes.

In the cases from Paragraph 1 of this Article, the inspector shall issue a decision within 24 hours from the issuing of the oral order.

Article 32

The health institution is obliged to implement the measures contained in the inspector's decision.

The appeal against the decision of the inspector is reviewed and decided upon in the second instance by a commission formed by the Minister of Health.

The appeal against the decision from Paragraph 1 does not postpone its execution.

MISDEMEANOUR PROVISIONS

Article 33

Fine ranging from 25,000 to 50,000 Euros in equivalent denar value shall be levied for a misdemeanor of a legal entity in cases of:

1. termination of pregnancy in violation of Articles 3,4 and 6 of this Law,
2. failure to carry out an emergency procedure for approval and performance of termination of pregnancy (Article 5 Paragraph 1)
3. failure to respect the rights of the pregnant woman in Article 5 Paragraph 2 of this Law,
4. failure of the commissions to issue a decision within three days of the submission of the request for termination of pregnancy, or when a case is filed based on the appeal by the pregnant women and there are justifiable reasons for the delay, within a period of no more than seven days (Article 12 Paragraphs 2 and 3),
5. failure to notify the first instance commission about the completion of a termination of pregnancy without a decision of the commission within three days of the said case (Article 13),
6. failure to keep minutes of the sessions of the commissions and a ledger (Article 15, paragraph 1),
7. failure to maintain the documentation related to the work of the doctor or the commissions in accordance with Article 15 Paragraph 2 of this Law,
8. failure to file a report about the work in the previous year by the end of January of the current year (Article 17),
9. failure to ensure medical supervision of the women in question for at least three days after the termination of the pregnancy (Article 18, Paragraph 1),
10. failure to provide special medical supervision and control for a woman following her first termination of pregnancy, while if the woman is a minor, failure to provide special care during the termination of her pregnancy, as well as to provide information, support and counseling (Article 18 Paragraph 2),
11. failure to act in compliance with Article 18 Paragraph 3 of this Law,
12. performing termination of pregnancy without meeting with the requirements set in Article 19 Paragraph 1 of this Law,
13. failure to adopt a work protocol (Article 19 Paragraph 2),
14. allows the carrying out of the procedure for termination of pregnancy in violation of Article 20 of this Law,
15. failure to act in accordance with Article 21 of this Law,
16. failure to include in their work programs all issues pertaining to the raising of awareness of women , men and youth about the harmful consequences from termination of pregnancy and the advantages of the use of means and methods of contraception or failure to include program activities to inform and educate the youth on the issue of humane and healthy gender relations (Article 22 Paragraph 1),
17. failure to file a report to the competent public prosecutor's office and/or to inform the Ministry of Health – the state sanitary and health inspectorate. (Article 23),

18. failure to report to the competent authorities any case of death within three days (Article 24),

The misdemeanor from Paragraph 1 of this Article carries a fine that ranges from 3,000 to 5, 000 Euros in equivalent denar value that shall be issued to the responsible person in the legal entity.

The misdemeanor from Paragraph 1 of this Article carries a fine that ranges from 5.000 to 6.000 Euros in equivalent denar value that shall be issued to the doctor employed by the legal entity who has committed the misdemeanor.

Article 34

Fine ranging from 2.000 to 3.500 Euros in equivalent denar value shall be issued for a misdemeanor committed by a health worker in the case of:

1. failure to inform the pregnant women and her spouse prior to the termination of the pregnancy in accordance with Article 6 Paragraph 3 of this Law,

2. commencing the termination of the pregnancy without meeting the requirements stipulated in Article 6 of this Law (Article 6 Paragraph 5),

3. failure to keep record in the ledger of the performed intervention, while failing to enter the data about the performed intervention in the medical file of the pregnant woman (Article 6 Paragraph 6),

4. failure to refer the pregnant woman to the first instance commission for approval of the termination of the pregnancy in accordance with Article 7 Paragraph 1 of this Law,

5. performs termination of the pregnancy on a pregnant woman who is also a minor or legally incapacitated, without requesting or acquiring the consent for termination of the pregnancy from the parent or guardian of the pregnant woman (Article 9 Paragraph 2 and Article 11 Paragraph 2),

6. failure to inform the director of the health institution concerning the completion of a termination of pregnancy without receiving the decision of the commissions within 24 hours (Article 13 Paragraph 2),

7. failure to keep record in the ledger (Article 15 Paragraph 1).

Article 35

The misdemeanor procedure concerning the misdemeanors stipulated in this Law is carried out by the competent court.

Prior to filing a request to initiate a misdemeanor procedure for misdemeanors stipulated in this Law, the Ministry of Health shall conduct a settlement procedure pursuant to the Law on Misdemeanors.

PENAL PROVISION

Article 36

Doctor who performs termination of pregnancy in violation to the provisions of this Law or in a health institution that is not in compliance with the provisions from Article 19 of this Law shall be subject to criminal charges and shall be sentenced to a prison sentence ranging from six months to three years.

Article 37

Health institution which performs termination of pregnancy in violation of Article 19 of this Law, shall be subject to criminal charges and shall be issued a fine and permanent revoking of the work license.

Director of the institution from Paragraph 1 of this Article, who shall permit termination of pregnancy in a health institution which fails to comply with the requirements in Article 19, shall be subject to criminal charges and shall be sentenced to a prison sentence ranging from six months to three years.

TRANSITIONAL AND FINAL PROVISIONS

Article 38

The Minister of Health within one year from the day of coming into force of this law shall adopt the regulations stipulated by this Law.

Article 39

Until the adoption of regulations stipulated by this Law, the regulations that were in force prior to the day of coming into force of this law shall apply.

Article 40

On the day of the coming into force of this Law, the Law on termination of pregnancy („Official Gazette of the Socialist Republic of Macedonia No. 22/72, 18/76 and 15/95) shall cease to be in effect.

Article 41

This Law shall come into force on the eighth day of its publication in the “Official Gazette of the Republic of Macedonia”