

ORDINANCE NO. 15-19

BY: O'LEARY

AN ORDINANCE to take effect at the earliest period allowed by law repealing Chapter 503, Abortions.

WHEREAS, Chapter 503 of the codified ordinances, last updated in 1977, stands to be repealed because it is outmoded, has been superseded or made redundant by state and federal laws, is unenforceable due to the unconstitutionality of many of its provisions, and is accordingly hostile to the constitutional rights of women in Lakewood; and

WHEREAS, this Council has determined that the repeal of Chapter 503 is a matter of local self-government and a matter of local police powers; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Chapter 503, Abortions, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

CHAPTER 503
Abortions

Preamble

503.01 Definitions.

503.02 License application, fee and requirements; issuance and appeal; advertising.

503.03 Plans and specifications; construction and major alterations.

503.04 Exterior and interior requirements.

503.05 Clinical facilities.

503.06 Patient observation and recovery areas.

503.07 Public and personnel areas.

503.08 Medication and storage areas.

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503.10 Communications system.

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- 503.30 Spousal notice.
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- 503.32 Saline abortion prohibited.
- 503.33 Child born alive.
- 503.34 Experimentation prohibited.
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- 503.36 Freedom of conscience.
- 503.37 Severability.
- 503.99 Penalty.

PREAMBLE

WHEREAS, the citizens of Lakewood are entitled to the highest standards of health care; and

WHEREAS, Council is aware of the developing trend toward the establishment of freestanding surgical outpatient facilities; and

WHEREAS, the surgical procedures performed in such facilities are not free from danger without provision for certain basic safeguards; and

WHEREAS, such facilities generally provide a limited range of surgical services, performed on an outpatient basis; and

WHEREAS, the existence and profitability of such facilities depends on the volume of procedures therein performed; and

WHEREAS, currently existing regulations and professional standards do not address the special problems associated with the type of services provided by freestanding outpatient facilities; and

WHEREAS, freestanding surgical outpatient facilities which provide pregnancy terminations, obstetrical care, and human sterilization services face special problems and function in an area where there are special physical, legal, medical, emotional and ethical consideration which have present and future social implications for patients; and

WHEREAS, Council has considered that the Supreme Court of the United States and other federal courts have declared that:

(1) State and municipal governments have legitimate interests in insuring that abortions are performed under circumstances that assure maximum safety for the patient;

(2) State and municipal governments have a valid and important interest in encouraging childbirth;

(3) State and municipal governments have an important and legitimate interest in protecting the potentiality of human life, and that although this interest does not alone become sufficiently compelling to justify unduly burdensome state and/or municipality interference with the woman's privacy until the time at which the fetus becomes viable, that nevertheless this interest is still a significant state and/or municipality interest existing throughout the entire course of the woman's pregnancy; and

(4) State and municipal governments have an unquestionably strong and legitimate interest in encouraging normal childbirth; and

WHEREAS, Council is aware of a great deal of misinformation and ignorance about the development of the potentiality of human life in the womb from the time of conception onwards until the birth of the child, and many people, including pregnant women, are not aware of this development, and due to the stress of circumstances said persons fail to obtain information as to this development, and knowledge of this development of the potentiality of human life in the womb can have a decisive influence upon the exercise by a pregnant woman of her constitutionally protected right to privacy with regard to abortion; and

WHEREAS, Council is cognizant of the fact that certain freestanding surgical outpatient facilities in the State of Ohio have provided substandard patient care; and

WHEREAS, scientific evidence demonstrates that biologically human life is present from the time of conception onward; and

WHEREAS, this chapter constitutes an emergency measure providing for the immediate preservation of the public health, safety and welfare, and for the further reason that such standards should be established at the earliest possible time; now, therefore, this chapter is enacted.

503.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

(a) "Anesthetic" means a drug, gas or other agent used to abolish the sensation of pain. There are three classifications as follows:

(1) "General anesthetic" means an anesthetic agent which produces a temporary loss of consciousness by the administration of a gas; oral, intramuscular and intravenous drugs; or a combination of these methods.

(2) "Local anesthetic" means a drug whose action is limited to an area of the body around the site of its application.

(3) "Spinal", "epidural" or "caudal anesthetic" means the injection of an appropriate local type of anesthetic into the spinal canal, epidural area, to produce a local loss of sensitivity to the body areas at and below the sensory nerve distribution at the level of injection.

(b) “Anesthesia” means a state of loss of feeling or sensation and is normally used to denote the loss of sensation to pain purposely induced by the use of a specific gas or drug to permit the performance of surgery or other painful procedure.

(c) “Anesthesiologist” means a physician specializing in the field of anesthesiology, who may or may not be a diplomat of his specialty board.

(d) “Anesthetist” means a person qualified to administer anesthetic. In common usage the term applies to nurses and lay persons who have had special training and experience under medical auspices in the administration of anesthetics.

(e) “Conception” means the union of the male sperm and the female ovum.

(f) “Department” means the Department of Health of the City of Lakewood, Ohio.

(g) “Director” means the Director of the Department of Health of the City of Lakewood, Ohio.

(h) “Freestanding surgical outpatient facility” or “facility” means an establishment offering any type of surgical procedures and related care which in the opinion of the attending physician can be performed safely without requiring inpatient overnight hospital care and exclusive of such surgical and related care as licensed physicians ordinarily may elect to perform in their private offices.

(i) “Health” means physical or mental health.

(j) “Hospital” means a general hospital or specialized hospital devoted to gynecology or obstetrics which is accredited by the American College of Physicians, the American College of Surgeons, the American Hospital Association, or the American Medical Association, or which is accredited by the Office of Hospital Affairs of the American Osteopathic Association.

(k) “Nurse” means a person currently licensed or registered as such by the State of Ohio.

(l) “Physician” means a person currently licensed to practice medicine or osteopathy by the State of Ohio.

(m) “Pregnancy termination” means abortion, which is the purposeful termination of a human pregnancy by any person, including the pregnant woman herself, with an intention other than to produce a live birth or to remove a dead unborn child. The terms “pregnancy termination” and “abortion” are identical.

(n) “Surgery” means the treatment of human beings by a physician, by the use of one or more of the following procedures:

(1) Cutting into any part of the body by surgical scalpel, electrocautery or other means for diagnosis or the removal or repair of diseased or damaged tissue, organs, tumors or foreign bodies.

(2) Reduction of fractures or dislocations of a bone, joint or bony structure.

(3) Repair of malformations or body defects resulting from injury, birth defects or other causes that require cutting and manipulation or suture.

(4) Instrumentation of the uterine cavity including the procedure commonly known as dilation.

(5) Any instrumentation of or injection of any substance into the uterine cavity of a woman for the purpose of terminating a pregnancy.

(6) Human sterilization procedures.

(7) Endoscopic procedures.

(o) "Unborn child", for the purpose of this chapter, shall include the unborn offspring of human beings from the time of conception, through pregnancy, and until live birth, including the human conceptus, fertilized ovum or zygote, embryo and fetus.

(p) "Viable" means capable of surviving outside of the womb of the mother upon premature birth, whether resulting from natural causes or abortion, or otherwise, and whether that capacity exists in part due to the provision or availability of natural or artificial life-support systems.

503.02 LICENSE APPLICATION, FEE AND REQUIREMENTS; ISSUANCE AND APPEAL; ADVERTISING.

(a) No freestanding surgical outpatient facility shall be established, maintained or operated without first obtaining a license from the City. The term "freestanding surgical outpatient facility" or other similar term shall not be used by unlicensed places.

(b) An application for a license for a facility shall be made on forms authorized and provided by the Director. The application shall include the identity of the owner of the facility.

(c) An application fee of five hundred dollars (\$500.00) shall accompany the initial application for a license as a freestanding surgical outpatient facility. An annual license fee of four hundred dollars (\$400.00) shall be due and payable on or before January 1 of each year thereafter.

(d) An application for a license for a facility shall be made and signed by the individual desiring to establish, conduct or maintain a licensed facility, or by the authorized representative of an individual, co-partnership, corporation, association or other legal entity desiring to establish, conduct or maintain a facility. The application shall include a statement of the intended purpose of the facility by specifying the types of surgery to be performed in it. When appropriate, the name of the facility may include a brief statement of the services provided, as for example: hand surgery, general surgery, industrial surgery, sterilization clinic or abortion clinic.

(e) The owner or governing body may designate a qualified administrator of a facility, who may be the authorized representative, and delegate to the administrator the responsibility for the day-to-day operation in compliance with licensing requirements and such additional policies or regulations as the owner or governing body may adopt.

(f) An authorized representative shall be authorized to make application and amendments to the application to provide the Director with all information necessary to the Director's determination made in connection with the issuance of the license and to enter into agreements with the Director in connection with the issuance of the license. A

certificate of appointment or other written evidence of the authority vested in the authorized representative shall be attached to the application.

(g) In matters relating to licensing, the Director may continue to deal with the authorized representative until notified in writing that a new authorized representative has been appointed with equal power, and that the former authorized representative is no longer authorized to act.

(h) The Director may use any appropriate means of notice and may direct notices of any administrative action pursuant to licensing of a facility to the applicant or the authorized representative either personally or by mail at the address of the facility.

(i) A freestanding surgical outpatient facility, prior to the issuance of a license, shall furnish a liability policy or copy thereof to the City, with minimum limits of one million -dollars (\$1,000,000) protecting a patient of such surgery against any and all acts of misfeasance or malfeasance by such surgery by the facility's employees or agents.

(j) A facility shall comply with a applicable State and local laws and regulations.

(1) If the Director determines that a facility complies with this chapter and all other applicable State and local laws and regulations, the Director shall issue a license.

(2) The Director shall immediately revoke the license of any licensed facility which fails to comply with this chapter and/or any other applicable State or local law or regulation.

(3) Upon issuance, denial or revocation of a license, the Director shall issue written notice of such action to the facility. In cases of issuance, the written notice shall specify that the application conforms to all applicable laws. In cases of denial or revocation, the written notice shall specify that the application and/or facility fails to conform to law, and shall set forth the section or sections of this chapter and/or applicable laws which the application and/or facility fails to conform with.

(4) Any person, or any party in interest aggrieved by the issuance, denial or revocation of a license, within fifteen days of such issuance, denial or revocation, may file with the Director a written request for a hearing before the Director. The request shall set forth the reasons why a hearing is desired and shall affirm or deny each item of compliance or noncompliance specified in the notice of issuance, denial or revocation.

(5) Within thirty days of the filing of a request for a hearing, the Director shall conduct such hearing. Personal service or service by certified mail shall be made upon the party in interest or person requesting the hearing at least ten days prior to the hearing, and the notice of hearing shall specify the place, date, hour, nature of the hearing, statement of the specific law or laws involved, and statement of the matters asserted.

(6) Within forty-five days of such hearing the Director shall issue a written decision in regard thereto, which shall specify therein the particular law or laws involved, the evidence adduced in relation thereto at such hearing, and the Director's decision. The written decision shall

be served personally or by certified mail, upon the party in interest or person who requested the hearing.

(7) Within thirty days of service of the Director's written decision, such decision may be appealed to the Board of Building and Zoning Appeals, and review by the Board shall be de novo.

(k) The Director or his authorized representative shall make an annual inspection within the three-month period before the facility's license expiration date, and the license shall not be renewed until the completion of such an inspection, and a favorable recommendation by the Health Department inspector is on file. Additional inspections shall be made as often as necessary in the judgment of the Director or his authorized representative.

(l) As issued license shall be posted in a conspicuous public area of the facility.

(m) A license is not transferable between owners or from one location to another.

(n) The facility shall give written notice to the Department within five business days of any change in information in the application pursuant to which a license has been issued.

(o) The use of the word "approved" or similar words by a facility is prohibited. The word "licensed" may be used by a licensed facility.

(p) The use of the word "hospital" or words having similar meaning is prohibited in reference to a facility except to identify a facility owned and operated by a licensed hospital by including, if desired, the name of the parent hospital in the name or by a modifying phrase or a clause as a subtitle of the facility's name.

(q) The use of the word "safe" or words of similar meaning to describe any services rendered by a freestanding surgical outpatient facility is prohibited in the absence of information about the risks associated with the procedure.

(r) No freestanding surgical outpatient facility nor any physician shall advertise any procedure of surgery unless the advertisement includes prominent notice about the mortality risk and the risks of injury from the surgery.

503.03 PLANS AND SPECIFICATIONS; CONSTRUCTION AND MAJOR ALTERATIONS.

(a) A floor plan of the facility, drawn to scale, with description of rooms showing size, door locations and fixed equipment shall be on file with the facility and the Department.

(b) A facility shall not be constructed nor major alterations undertaken without first obtaining a construction permit from the City Building Department after compliance with all applicable statutes and ordinances, including the provisions of this chapter.

(c) The owner or governing body of a proposed freestanding surgical outpatient facility shall submit plans of the proposed facility to the Director for review and approval prior to the initiation of any construction project, including modernization, addition to, or conversion of an existing structure. The purpose of the review is to require that the

proposed facility is designed and constructed in accord with applicable laws.

(d) A major alteration is deemed to be an extensive structural alteration of an existing building area involving significant changes in the interior configurations or intended use by the moving of partitions of a number of rooms and involving an expenditure of an amount in excess of twenty-five thousand dollars (\$25,000). Removal of the partitions between two adjacent rooms to provide additional room space is not deemed to be a major alteration unless it exceeds twenty-five thousand dollars (\$25,000) in cost and multiple charges are to be made for a changed use of an entire wing or area and extensive plumbing and electrical wiring changes are required.

503.04 EXTERIOR AND INTERIOR REQUIREMENTS.

(a) The building shall be of safe construction and shall be free from hazards to patients, personnel or visitors.

(b) The premises of a facility shall be maintained in a safe and sanitary condition and in a manner consistent with the public health and welfare.

(c) At least one entrance to a facility shall provide safe and easy access for the physically handicapped by means of exterior ramps and/or steps which shall have adequate lighting and a handrail on both sides.

(d) Each area of a facility shall be provided with lighting adequate for the use to be made of the location and in accord with generally recognized lighting standards.

(e) Each area of a facility shall be provided with a type and amount of ventilation commensurate with its use, to minimize the occurrence of a transmissible disease, control odors and contribute to the comfort of patients and personnel.

(f) Corridors, hallways, passageways and doorways shall be kept free from obstruction at all times.

(g) Floors, walls and ceilings shall be covered and finished in a manner that permits maintenance of a sanitary environment.

(h) The building, supplies, equipment and furnishings shall be maintained in a clean, sanitary, safe and usable condition. A facility shall have a housekeeping manual stating frequency and procedure for cleaning various areas in the facility.

(i) Emergency electrical service shall be permanently installed to provide lighting in corridors, exits, procedure rooms, recovery rooms, congregate rooms, nurse stations and other critical areas. In new construction or renovations, an emergency generator with automatic transfer switch or an alternative source of immediate electrical power acceptable to the Director shall be provided for lighting and operation of equipment necessary to patient care.

503.05 CLINICAL FACILITIES.

(a) Examination rooms shall be provided adequate to meet the volume of work to be accomplished, and each room shall provide a minimum of seventy square feet of usable floor space. In new

construction or renovations, eighty square feet of usable floor space shall be provided.

(b) An examining room shall have a handwash lavatory within the room, equipped with a gooseneck inlet and wrist, knee or foot controls.

(c) A change area shall be provided for patients and provision made for the safe storage of their personal effects.

(d) Operating or procedure rooms shall be provided adequate to meet the volume of work to be accomplished, and each room shall provide a minimum of 120 square feet of usable floor space. In new construction, 150 square feet of usable floor space shall be provided

(e) Explosive anesthetic agents shall not be used in the rooms.

(f) A supply of oxygen with appropriate masks or other means of administration shall be available in each operating room.

(g) The room shall be designed to permit transfer of a patient from the table to a stretcher and to permit sufficient clearance on either side and at the foot of the table with necessary equipment and supplies in place.

(h) A nurse call signal shall be provided from the procedure and examining room to a central control station.

(i) A scrub sink with gooseneck outlet shall be available in or adjacent to the procedure rooms.

(j) Single use soap, scrub brushes and towels shall be utilized in patient care areas.

(k) The room shall contain a suitable operating table and other equipment necessary for the types of procedures to be accommodated.

(l) Space for and sterilization equipment shall be provided to process all medical supplies which require sterilization between uses. Equipment shall have sufficient capacity to accommodate the work load of the facility, and controls acceptable to the Director shall be used to check effectiveness and assure sterilization.

503.06 PATIENT OBSERVATION AND RECOVERY AREAS.

(a) Patient observation and recovery areas shall be provided in sufficient numbers to accommodate the patient load with a planned minimum of a three-hour recovery period and longer when necessary for individual patients. They shall be comfortably furnished and adequately equipped for the patient's safe postoperative observation and recovery.

(b) A facility shall provide at least one recovery room equipped for the use by and observation of patients requiring recumbent care post-surgically. A minimum of one hospital type bed or wheeled recovery room stretcher shall be provided for each ten post-surgical patients to be cared for at any one time.

(c) Single bed/stretcher recovery rooms shall provide a minimum of 100 square feet of usable floor space. Multiple bed/stretcher recovery rooms shall provide a minimum of eighty square feet floor space per bed or stretcher.

(d) Patient observation and recovery rooms shall have a minimum door width of three feet.

(e) A recovery room shall be designed to provide a minimum of three feet between beds or stretchers and four feet of clearance at the foot of the bed or stretcher.

(f) Comfortably furnished congregate rooms equipped with either reclining or lounge type chairs or cots may be provided for the post-surgical observation of patients not needing bed or stretcher accommodations. Each congregate type room shall provide a minimum of fifty square feet of usable floor space for each patient to be accommodated. A congregate room shall not contain accommodations for more than twelve patients.

(g) A toilet and lavatory shall be provided for each six recovery patients as a minimum. One or more bathing facilities are recommended.

(h) Corridors used for patient entry, egress and for surgical care areas in a facility shall have a minimum width of six feet.

(i) The numerical capacity of a facility shall be determined by the number of observation and recovery units provided. The post-surgical occupancy of a facility shall not exceed the determined capacity.

503.07 PUBLIC AND PERSONNEL AREAS.

(a) Space shall be provided for adequate reception, waiting, interviewing, administrative and business office functions.

(b) Space provided for admission, interviewing and consultation functions shall be so located as to provide privacy. This shall include adequate office space and furnishings for the social worker if one is employed by a facility and for counselors and outside agency workers, when indicated, to interview and advise patients in reasonable privacy.

(c) One or more rooms equipped with toilet and lavatory facilities shall be provided near the waiting and reception areas.

(d) Locker room space or other security resources shall be provided for employee's personal effects.

(e) In new construction or renovations an approved type public drinking fountain shall be provided.

503.08 MEDICATION AND STORAGE AREAS.

(a) Medication work and storage areas shall be provided adequate to meet the volume of work to be accomplished.

(b) A shelf or desk shall be provided for the nurse's use in preparing and administering medications and recording of information in patients records and shall be within and readily accessible to all patient care areas for which that nursing station has responsibility.

(c) A medication storage and preparation area equipped with a sink with a gooseneck inlet and hot and cold water and locked storage for medications shall be provided. This shall include adequate space for the safe storage of medications, fluids and electrolyte solutions in a safe and sanitary manner.

(d) Space shall be available for the storage of clean linens, equipment, supplies, wheelchairs and stretchers.

(e) A soiled utility room shall be available for temporary holding of waste materials and cleaning of items to be reused.

- (f) A janitor's closet with service sink shall be available.
- (g) Hazardous and toxic materials shall be stored in a safe manner.
- (h) A central general storage room shall be provided with space necessary to meet storage needs of the facility.

503.09 SUPPLIES AND EQUIPMENT.

(a) Supplies of appropriate drugs, medications, fluids, electrolyte solutions (including plasma volume expanders), Rho (L) immune globulin for use when indicated or other procedures or substances to prevent Rh sensitization, sterile linens (gowns, drapes, towels and so forth), gloves, dressings, bandages and so forth shall be maintained in sufficient quantities for regular and emergency use. The drug storage, dispensing and administration system shall comply fully with applicable State and City laws and rules.

(b) Such surgical instruments, accessory and operating room lights, and resuscitation equipment when indicated.

(c) A facility shall provide for the services of a qualified pathologist to be available to it for the pathological examination and reportings of findings of all surgical specimens removed at the facility which in the judgment of the surgeon require pathological examination. Tissues not examined by a pathologist shall be described and identified in the clinical record by the operating surgeon.

503.10 COMMUNICATIONS SYSTEM.

Adequate telephone communication and a nurse call system shall be provided for patient and staff use appropriate for the size of a facility and scope of services rendered.

503.11 HEATING AND ELECTRICAL SYSTEMS.

(a) A safe heating system shall be provided.

(b) A room used for patient care shall be maintained at a temperature of at least 70 degrees Fahrenheit with a maximum temperature of 78 degrees Fahrenheit as measured three feet above floor level. Air conditioners may be utilized to maintain the maximum temperature of 78 degrees Fahrenheit.

(c) Duplex electrical outlets with a three-wire system shall be provided in sufficient numbers to meet the needs of the areas served.

(d) Electrical equipment shall be maintained in good repair and properly grounded.

503.12 WATER SUPPLY SYSTEM.

(a) A facility shall connect to and use a public water system.

(b) There shall be no cross connections between water systems that are safe for human consumption and those that are, or may become, unsafe for human consumption.

(c) Minimum water pressure available to each plumbing fixture shall exceed twenty pounds per square inch (20 psi).

(d) The plumbing system shall supply an adequate amount of hot water at all times to meet the needs of each patient and the functioning of the various service areas.

(e) Hot water temperatures at fixture outlets shall be regulated to provide tempered water in range of 110 to 125 degrees Fahrenheit.

503.13 ELEVATORS.

An elevator shall be provided where patient care is provided on other than the ground or street levels. The cab size of the elevator shall be sufficient to accommodate a stretcher and attendant.

503.14 LIQUID WASTES.

(a) Liquid wastes shall be discharged into a public sanitary sewage system.

(b) The liquid waste disposal system shall be maintained in a sanitary manner.

503.15 SOLID WASTES.

(a) The collection, storage and disposal of solid wastes, including garbage, refuse and dressings, shall be accomplished in a safe and sanitary manner to minimize the danger of disease transmission and avoid creating a public nuisance or a breeding place for insects and rodents.

(b) Suitable containers for garbage, refuse, dressings and other solid wastes shall be provided, emptied at frequent intervals and maintained in a clean and sanitary condition.

(c) Dressings, bandages and similar materials shall be disposed of in an incinerator provided with auxiliary fuel or in some other manner approved by the Director.

(d) A facility shall have and enforce a written policy to govern storage, transportation and disposal of surgical specimens. Surgical specimens not sent to a pathology laboratory shall be disposed of in a medically acceptable manner.

(e) In abortion facilities, the additional requirement of Section 503.35 shall apply.

503.16 X-RAY SERVICES.

(a) In a facility offering services which ordinarily require diagnostic x-ray examinations, appropriate arrangements shall be made to assure their availability.

(b) Depending on the volume and urgency of x-ray needs, the facility shall do one of the following:

(1) Arrange with a nearby radiology service operated by a qualified radiologist for the provision of the examination.

(2) Provide appropriate x-ray equipment with necessary staff within the facility. In such installations, the service shall be maintained under the direction of a physician qualified for the responsibility and shall include protection of patients and personnel from overexposure to radiation or electric shock.

(c) A report of a finding on an x-ray examination made shall be entered in the patient's record.

(d) Radiographic equipment shall be maintained in accord with existing laws and rules.

503.17 TRANSPORTATION SERVICES.

A facility shall have available immediately adequate transportation services for emergency patients requiring transfer to a hospital. A facility shall be located not more than fifteen minutes normal travel time from the hospital with which written emergency admission arrangements are made. When indicated, a physician or nurse from the facility shall accompany the patient to provide emergency care enroute.

503.18 MEDICAL RECORDS.

(a) Medical records shall be originated on all patients undergoing surgery, signed by the responsible physician, indexed and so filed as to assure their ready access and future availability. They shall be maintained in accordance with a written retention policy acceptable to the Director. In a hospital operated facility, the record keeping shall be incorporated into the hospital medical records system, including and subject to its established retention policies.

(b) Medical records shall contain as a minimum:

(1) Patient identification, including name, address, marital status and birthdate.

(2) Medical history.

(3) Physical examination.

(4) Medical orders signed by the responsible physician.

(5) Laboratory findings.

(6) Special examination findings, for example, x-ray or electrocardiogram.

(7) Preoperative and final diagnosis.

(8) Nurses' notes which shall include a recording of vital signs, pre- and postoperatively, color, appearance and other relevant observations with such frequency postoperatively as to document the patient's stabilized condition at time of discharge.

(9) Record of the sedation and anesthetic used by product name and dosage, identity of anesthesiologist if other than the surgeon, procedure and any pertinent information concerning results or reactions.

(10) Written consultation reports signed by the consultant.

(11) Social or social service information relevant to the case.

(12) Surgeon's operative note including naming of procedure performed, physician performing surgery, anesthetic agent used, names of assistants (whether another physician, a nurse or specially trained technician), duration of procedure and any unusual problems or occurrences encountered, and surgeon's description of gross appearance of tissues removed.

(13) Physician's progress notes and discharge note. The physician's progress and discharge notes may be combined in the patient's clinical record.

(14) Summary of instructions given for followup observation and care as well as recording of all referrals for counseling, family planning or other medical conditions requiring further attention.

(15) Identification of the physician who actually discharges the patient.

(c) Medical records shall be available for survey and review of content at any time by authorized members of the Department.

(d) Medical records shall be maintained as confidential documents with the following exceptions:

(1) Information required under these rules.

(2) Information required by law.

(3) Information authorized for disclosure by written release by the patient.

(e) A facility in which abortions are performed shall maintain records of the procedures, and shall file reports and furnish statistical and such other information as may be required by the Director. The Director shall take adequate measures to protect the confidentiality of identity of the patient from the public.

There shall be reported on forms provided by the Director which shall include at a

minimum the following information:

(1) Name and address of the facility.

(2) Patient number, with the identity of the patient to be kept separate from the patient number on public records.

(3) Date of abortion.

(4) Zip code of residence of pregnant female.

(5) Age of pregnant female, and impregnating male, if known.

(6) Race.

(7) Marital status of pregnant female, and impregnating male, if known.

(8) Number of previous pregnancies.

(9) Years of education.

(10) Number of living children.

(11) Number of previous induced abortions, spontaneous abortions and still- births.

(12) Date of last induced abortion.

(13) Date of last live birth and health of such child at birth.

(14) Date of beginning of last menstrual period.

(15) Stated reason for abortion.

(16) Medical condition of female at time of abortion.

(17) Blood type and RH type.

(18) Type of abortion procedure.

(19) Medical indication for abortion, if any.

(20) Complications noted if any from previous or present termination procedures.

(21) All certifications required by this chapter.

The report shall be signed in each instance by the physician performing the procedure.

The report for it shall not require particular identification of the patient undergoing the procedure.

(f) An individual complication report shall be submitted to the Department by any physician who treats a patient who has received treatment in a freestanding surgical outpatient facility. This report shall include:

- (1) The date of the original procedure.
- (2) The name and address of the freestanding surgical outpatient facility where the original procedure was performed, and
- (3) The nature of the complication observed and the treatment rendered.

(g) Failure or refusal of a facility to file the notification of termination of pregnancy, properly executed and personally signed by the reputable physician, is sufficient cause for immediate revocation of license.

(h) Information submitted by a referral source shall become an integral part of the clinical record of the patient.

(i) The Department shall be responsible for collecting, collating and evaluating of all data gathered from the reports required by this chapter. Information and data not privileged will be made available to the public upon request.

(j) The Department shall make report forms available to all freestanding surgical outpatient facilities. Such forms may be used by these facilities to meet their reporting requirements.

(k) Adequate space shall be provided for the storage of medical records so located as to assure their confidentiality and protect them from access by unauthorized persons. Additional work space in or adjacent to the medical records storage area shall be provided for the assembly, completion and review of medical records.

503.19 PATIENT CARE; ADMISSION AND REGISTRATION.

(a) A facility shall be planned, staffed, equipped and operated with the individual patient's welfare and safety to be of paramount concern.

(b) The feelings, sensibilities and comfort of the patient shall be fully respected and given meticulous attention by all personnel.

(c) A person cared for in a facility shall be seen by, and be under the care of a currently licensed physician.

(d) A person referred, or applying, for care in a facility shall be received and treated in a kindly and sympathetic manner.

(e) An applicant for care shall be registered promptly with the procurement of the identification, vital and financial information essential to the initiation of requisite medical and business records and any required departmental reports.

503.20 DISASTER AND EMERGENCY PROCEDURES; WRITTEN PLAN.

(a) A facility shall have a written plan of procedure to be followed in case of fire, explosion or other emergency.

(b) A disaster plan shall specify persons to be notified, location of alarm signals and fire extinguishers, evacuation routes, emergency procedures for patient care and assignment of specific tasks.

(c) Personnel shall be assigned and trained to perform specific tasks.

503.21 MEDICAL POLICIES AND RULES.

(a) In a hospital owned and operated facility, the medical staff rules, regulations and policies adopted by the hospital for such care shall prevail.

(b) In a nonhospital owned and operated facility, comparable written medical staff rules, regulations and policies shall be developed and adopted by the medical staff.

(c) A facility shall have a written policy adopted by the medical staff to provide for adequate handwashing and surgical scrub-up procedures between patient examinations when actual contact with a patient occurs and between surgical operative procedures in accord with generally accepted standards for sanitation and surgical scrub-up cleanliness.

503.22 PHYSICIAN QUALIFICATIONS AND RECORDS.

(a) A physician, podiatrist or dentist performing surgery in a facility shall possess adequate qualifications acquired by special training and experience to evaluate the medical, podiatric or dental conditions, potential risks, recognize and adequately treat emergency complications encountered in any procedure undertaken, and perform the procedure in accordance with the usual standards of medical, podiatric or dental practice.

(b) The facility shall maintain a record of the educational training and experience background of each person granted privileges to perform surgery in a facility.

(c) A qualified anesthesiologist or anesthetist shall be on the staff and when medically indicated, participate in the selection of the most appropriate anesthetic agent to be used and be present to supervise or actually administer the anesthetic when procedures are undertaken which require such participation.

503.23 NURSE QUALIFICATIONS; ANCILLARY PERSONNEL.

(a) Nursing care in a facility shall be under the direction of a currently registered professional nurse who possesses additional qualifications acquired by training and experience essential to the proper and safe conduct of the surgical procedure undertaken and nursing care attention to the postoperative observation and needs of the patients.

(b) A registered professional nurse who possesses the special skills and experience necessary to supply or supervise all nursing care needs of patients in preparation for and during the surgical procedure and the recovery period until discharge by the responsible physician shall be on duty.

(c) A licensed practical nurse with special training and experience working under appropriate supervision and direction may be used to complement the registered professional nursing staff to perform duties

within the scope of his competence and restrictions of the nursing practice act.

(d) Ancillary personnel participating in patient care who are adequately trained and working under appropriate direction or supervision may be employed to assist within the areas of their competence in the conduct of the work of the facility.

503.24 MEDICAL SUPERVISION AND ADMINISTRATIVE MANAGEMENT; MEDICAL REVIEWS.

(a) The medical care provided in a facility shall be under the direction of a qualified licensed physician.

(b) There shall be a designated responsible person in overall administrative charge of a facility who may be the owner, a co-owner or person employed by the owner to fulfill this responsibility. If qualified, the person may also be the medical director who shall be responsible for the medical direction of the facility as well as for the nonprofessional administrative activities, or a suitably qualified nonmedical administrator may be employed to assume nonprofessional administrative and business management responsibility.

(c) The conduct of the work of a facility shall be regularly and frequently reviewed by the appropriate medical staff committee (tissue, medical audit or utilization, medical records) in a hospital operated facility to assure maintenance of high standards and quality of care. In other facilities, comparable arrangements acceptable to the Director for impartial medical surveillance and review of the quality of care provided shall be made.

503.25 COUNSELING AND REFERRALS FOR SUBSEQUENT CARE.

(a) When procedures having present or future social implications for a patient are performed, such as human sterilizations or pregnancy terminations, or when indicated in other situations, a facility shall provide counseling, interpretation and referral for subsequent indicated care. To accomplish this, a facility shall:

(1) Provide through physicians, qualified nurses, social workers or specially trained and qualified counselors for appropriate assistance and counseling as needed.

(2) Maintain liaison with and make indicated referrals to community counseling, family planning or other social and health service agencies to help assure appropriate and adequate subsequent care of the patient.

(3) Provide such counseling or assistance without coercion. In cases where the attending physician certifies that the counseling provisions of this section would be detrimental to the health of the patient, authority to dispense with the provisions of this section shall first be obtained from a court of appropriate jurisdiction.

(4) Provide counseling in cases of pregnancy termination, which shall be approved by the Director and which shall include factual information and scientifically accurate photographs or reproductions thereof depicting the biological development of the unborn child and

actual measurements during the various stages of gestation, information regarding alternatives to the abortion procedure, and information and a description of the abortion procedure.

(5) Provide information in cases of sterilization, which shall inform the patient regarding alternatives to the sterilization procedure, a description of the sterilization procedure, information regarding the medical possibility of reversing the procedure, and information regarding the making of provisions to produce subsequent offspring.

(b) Counselors, other than a responsible physician, should consult with the physician concerning results of counseling and the initiation of any referrals that seem necessary.

(c) An appropriate method for providing information to and receiving information from legitimate referral sources shall be established, including adequate mechanisms for the scheduling and fulfilling of appointments requested by a referral source.

503.26 SURGICAL PROCEDURES AND MEDICATIONS.

(a) A surgical procedure performed in a facility shall be performed by a licensed physician.

(b) A licensed physician shall be present on the premises of a facility through the postoperative period of a patient's stay in the facility.

(c) Medications, diagnostic procedures and treatments customarily given or performed by nurses or other qualified personnel shall be given only upon written order of the responsible physician except that:

(1) In emergencies, verbal orders of the physician for medications or treatments may be carried out with subsequent notation of such care being entered in the patient's record and signed by the physician.

(2) Standing orders for specific tests and pre- and postoperative care may be established and honored when provided in writing and approved by the medical staff or physician owner or operator of the facility.

503.27 PREGNANCY TERMINATION.

(a) No pregnancy termination shall be performed unless the attending physician certifies in writing as a part of the patient's medical record that the unborn child is not viable, or unless such termination is necessary to preserve the life or health of the pregnant woman.

(b) (1) In order to ensure the safety and protection of the interest of viable unborn children and to guard against misdiagnoses, any pregnancy termination which involves a viable unborn child shall be performed only upon written certifications by the attending physician and one other physician that in their best medical judgment the pregnancy termination is necessary to prevent the death of the pregnant woman or to prevent a grave impairment to her health. Each physician shall further certify in writing the medical indications for such pregnancy termination and the probable health consequences if the pregnancy termination is not performed.

(2) Any pregnancy termination which involves a viable unborn child shall be performed in a manner which will preserve the life and health of both the mother and the unborn child. Such termination procedures shall

provide the maximum opportunity for the survival of the child without creating undue risk to the life of the mother.

(c) An unborn child is presumed to be viable if more than twenty-two weeks have elapsed since the probable beginning of the last menstrual period of the pregnant woman, based upon information provided by her and upon an internal examination by her attending physician.

(d) In order to ensure the safety and protection of the pregnant woman, no pregnancy termination shall be performed if more than fourteen weeks have elapsed since the probable beginning of the last menstrual period of the pregnant woman, based upon information provided by her and upon an internal examination by her attending physician, unless one of the following conditions is satisfied:

(1) The facility is physically attached to a parent hospital which provides for in-patient care, or

(2) The facility is physically adjacent to a hospital and has an agreement with such hospital to provide for in-patient care, or

(3) The facility has available on its premises resuscitation equipment, a blood bank, adequate equipment and personnel to perform surgical repair for any damage done to the cervix or other organs of the pregnant woman, and an operating area which complies with standard sterile medical procedures.

503.28 INFORMED CONSENT.

(a) Any surgical procedure performed in a freestanding surgical outpatient facility shall be performed only with the advance informed written consent of the patient, given freely and without coercion.

(b) In order to ensure that consent in cases of pregnancy termination is truly informed, and is given without coercion, any termination procedure shall be performed only after the pregnant woman has acknowledged in writing that she has received all of the following information, both orally and in written form, and that she understands such information:

(1) That she is pregnant.

(2) The number of weeks elapsed from the probable time of conception, based upon information provided by her as to the time of her last menstrual period and upon an internal examination by her attending physician.

(3) Scientifically accurate photographs or reproductions thereof depicting the biological development of the unborn child and actual measurements during the various stages of gestation.

(4) That her unborn child or human embryo is alive and has a brain, spinal cord, nervous system, and beating heart, if more than four weeks have elapsed from the time of conception.

(5) That her unborn child or human embryo has eyes, ears, a mouth, teeth, a tongue, a nose, arms, legs, fingers, toes, bones, muscles, skin and all internal organs, if more than seven weeks have elapsed from the time of conception.

(6) That her unborn child or human fetus has all his or her organs and body systems present, if more than eight weeks have elapsed from the time of conception.

(7) That her unborn child or human fetus is able to perform the following bodily functions, if more than nine weeks have elapsed from the time of conception: squint, frown, swallow, move his or her tongue, make a fist and is sensitive to touch.

(8) That her unborn child or human fetus has all his or her organs and body systems functioning, if more than eleven weeks have elapsed from the time of conception.

(9) That her unborn child or human fetus has the capability of surviving outside of her womb, if more than twenty weeks have elapsed from the time of conception.

(10) That abortion is a surgical procedure which can result in serious complications including infection, hemorrhage, drug sensitivity, perforation of uterus, incomplete abortion, continued pregnancy, removal of uterus, menstrual disturbances, sterility, miscarriages, prematurity in subsequent pregnancies and death.

(c) The method of conveying such oral and written information to the patient shall be approved by the Director.

(d) The written consent form signed by the patient shall contain all of the above specified information and shall consist of a consent form supplied by the Director or a consent form supplied by the attending physician and approved by the Director. The attending physician performing the abortion shall provide the patient with a duplicate copy of the consent form signed by her.

(e) In all cases of pregnancy termination there shall be a twenty-four hour waiting period between obtaining the informed consent of the patient and the actual performance of the termination procedure, unless the attending physician certifies in writing that the termination procedure is necessary as an emergency procedure to preserve the life of the pregnant woman.

503.29 MINORS; NOTICE AND/OR CONSENT.

(a) No person shall perform or induce a pregnancy termination upon an unmarried pregnant woman under the age of eighteen years without first having given twenty-four hours actual notice to one of the parents or the legal guardian of the minor pregnant woman as to the intention to perform such pregnancy termination, unless the attending physician certifies in writing that the termination procedure is necessary as an emergency procedure to preserve the life of the pregnant minor and in such case the parents or guardian shall be informed as soon as practicable about the termination procedure.

(b) No person shall perform or induce a pregnancy termination upon a pregnant woman under the age of sixteen years without first obtaining the informed written consent of both the minor pregnant woman and one of her parents or her legal guardian. In cases where such consent cannot be obtained, authority to waive such consent shall first be obtained from a court of appropriate jurisdiction.

503.30 SPOUSAL NOTICE.

In any case of surgery which may affect either the present or future reproductive capability of a married person, the spouse of such person shall be given twenty-four hours actual notice prior to the performance of the surgery as to such person's intention to undergo the surgery, unless the attending physician certifies in writing that the surgery is necessary as an emergency procedure to preserve the life of the married person, and in such case, the spouse of such person shall be informed as soon as practicable about the surgery.

503.31 PATERNAL NOTICE.

(a) No person shall perform or induce a pregnancy termination upon a pregnant woman without first having given twenty-four hours actual notice to the expectant father of the unborn child as to the intention to perform such pregnancy termination.

(b) In cases where the pregnant woman certifies in writing that the expectant father's identity or whereabouts is unknown, or in cases where the attending physician certifies in writing that the termination procedure is necessary to preserve the life of the pregnant woman, such paternal notice is waived.

503.32 SALINE ABORTION PROHIBITED.

No person shall perform or induce an abortion upon a pregnant woman by the method or technique known as saline amniocentesis, whereby the amniotic fluid is withdrawn and a saline solution is inserted into the amniotic sac for the purpose of killing the unborn child and artificially inducing labor, unless the attending physician shall certify in writing that in his best medical judgment there is no other abortion technique available to the pregnant woman which presents less of a danger to her life or health.

503.33 CHILD BORN ALIVE.

(a) No person shall purposely take the life of a child born as a result of an abortion or attempted abortion who is alive when separated from the uterine wall of the pregnant woman.

(b) Any person who performs or participates in the performance of an abortion shall take all reasonable measures to preserve the life of a child who is alive when separated from the uterine wall of the pregnant woman.

503.34 EXPERIMENTATION PROHIBITED.

No person shall experiment upon or sell a child or unborn child or the remains of a child or unborn child resulting from a pregnancy termination. Experiment does not include autopsies performed according to law, nor does it include those medical techniques protecting the life and/or health of the unborn child.

503.35 HUMANE DISPOSAL OF HUMAN REMAINS.

Any person who shall perform or induce a pregnancy termination upon a pregnant woman shall ensure that the remains of the unborn child are disposed of in a humane and sanitary manner.

503.36 FREEDOM OF CONSCIENCE.

(a) No hospital, public or private, hospital director or governing board of a public or private hospital within the City is required to permit pregnancy terminations to be performed in such hospital. Refusal to permit a pregnancy termination is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

(b) No person may be required to perform or participate in medical procedures which result in an abortion. Such procedures which result in an abortion shall include those in preparation for the termination, those involving aftercare of the pregnant woman, and any other procedure involved in the pregnancy procedure. Refusal to perform or participate in such medical procedures resulting in pregnancy termination is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

503.37 SEVERABILITY.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared severable.

503.99 PENALTY.

(a) Whoever violates Section 503.02, 503.25, 503.26, 503.27, 503.28, 503.29, 503.30, 503.31, 503.32, 503.33, 503.34 or 503.35 is guilty of a misdemeanor of the first degree.

(b) Whoever violates any other provision of this chapter is guilty of a misdemeanor of the third degree.

(c) Every day that any such violation continues shall constitute a separate and distinct offense.

is hereby repealed.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR