Massachusetts

"It is established that "[t]he decision whether or not to beget or bear a child is at the very heart of this cluster of constitutionally protected choices. That decision holds a particularly important place in the history of the right of privacy…..... This is understandable, for in a field that by definition concerns the most intimate of human activities and relationships, decisions whether to accomplish or to prevent conception are among the most private and sensitive." ***Moe v. Sec'y of Admin. & Fin.*****, 417 N.E.2d 387, 399 (1981) (citations omitted)**

Protecting Access to Medication Abortion, Executive Order 609

NOW, THEREFORE, I, Maura Healey, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § I, Art. I, do hereby order as follows:

Section 1. Definition of "Reproductive health care services" in the 2022 Shield Law. All executive department offices and agencies shall construe the term "reproductive health care services," as it appears in Chapter 127 of the Acts of 2022, and this Order to include medication abortion and medical management of miscarriage, including but not limited to the use, prescribing, dispensing, or administration of mifepristone or misoprostol.

Section 2. Definition of "lawful and consistent with good medical practice" in the 2022 Shield Law. All executive department offices and agencies shall construe the term "lawful and consistent with good medical practice," as it appears in Chapter 127 of the Acts of 2022, and this Order to include medication abortion and medical management of miscarriage, including but not limited to the use, prescribing, dispensing, or administration of mifepristone or misoprostol.

Section 3. Definition of "Legally-protected health care activity" in the 2022 Shield Law. All executive department offices and agencies shall construe the term "legally-protected health care activity," as it appears in Chapter 127 of the Acts of 2022, and this Order to include medication abortion and medical management of miscarriage, including but not limited to the use, prescribing, dispensing, or administration of mifepristone or misoprostol.

Section 4. Department of Public Health Guidance. To implement this Order, the Commissioner of Public Health shall issue all necessary guidance concerning access to medication abortion, including but not limited to the use, prescribing, dispensing, or administration of mifepristone or misoprostol, in the Commonwealth. The Commissioner shall report to the Governor and Lieutenant Governor on all measures implemented within 45 days of this Order.

Section 5. Division of Insurance Guidance. To implement this Order, the Division of Insurance shall issue all necessary guidance or bulletins to insurers concerning reproductive health care services, including but not limited to medical malpractice insurers concerning discrimination against providers or adjusting or calculating a provider's risk classification or premium charges relating to the provider's offer of reproductive health care services in the Commonwealth. The Division shall report to the Governor and Lieutenant Governor on all measures implemented within 45 days of this Order.

Section 6. Protection of Health Care and Other Professionals Licensed in the Commonwealth. The Commissioner of Public Health is directed to work with the boards of professional licensure operating under their respective supervision to implement policies that will ensure that no person

shall be disqualified from licensure or subject to discipline by a Commonwealth board of professional licensure for providing or assisting in the provision of reproductive health care services, including medication abortion, so long as the services as provided would have been lawful and consistent with standards for good professional practice in the Commonwealth. The Commissioner shall report to the Governor and Lieutenant Governor on all measures implemented by the boards under their supervision within 45 days of this Order.

Section 7. Public Institution of Higher Education Medication Abortion Readiness Plans. The Commissioner of Public Health shall issue guidance to and cooperate with public institutions of higher education to develop and implement medication abortion readiness plans as required by Chapter 127 of the Acts of 2022 that include but are not limited to the use, prescribing, dispensing, or administration of mifepristone or misoprostol. The Commissioner shall report to the Governor and Lieutenant Governor on all measures implemented within 45 days of this Order.

Section 8. This Executive Order shall take effect upon execution and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.

Protecting Access to Emergency Abortion Care in Massachusetts, Executive Order No. 633

NOW, THEREFORE, I, Maura T. Healey, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § I, Art. I, do hereby order as follows:

Section 1. The executive branch of the Commonwealth of Massachusetts, including all its constituent parts and all entities directly or indirectly subject to the authority of the Governor, shall continue to reaffirm and recognize that Massachusetts state law protects the right to an abortion. Specifically, all such entities shall construe Massachusetts law as:

- protecting a person's right to an abortion from any state governmental interference, *see* M.G.L. c. 112, § 12L;
- affirming the right of physicians, physician assistants, nurse practitioners, and nurse midwives to perform abortions before twenty-four weeks of pregnancy, *see* M.G.L. c. 112, § 12M;
- allowing physicians to perform abortions after twenty-four weeks of pregnancy for specified medical reasons, *see* M.G.L. c. 112, § 12N;
- protecting health care providers and pharmacists in Massachusetts from professional licensure consequences and out-of-state legal actions when those persons provide or assist in the provision of reproductive health care services or gender-affirming health care services in Massachusetts, *see* Chapter 127 of the Acts of 2022 (known as Massachusetts's 2022 Shield Law) and Executive Order No. 609, Protecting Access to Medication Abortion Services in the Commonwealth; and
- shielding patients from out-of-state legal actions when they seek the provision of reproductive health care services or gender-affirming health care services.

Section 2. All executive branch agencies shall continue to reaffirm and acknowledge that Massachusetts law explicitly prohibits acute hospitals from refusing admission and treatment to any patient based on method of payment and provides a right to prompt life saving treatment in an emergency without discrimination on account of economic status or source of payment. *See* M.G.L. c. 111 § 51D; M.G.L. c. 111 § 70E.

Section 3. The Commissioner of Public Health shall forthwith issue guidance to hospitals that as a condition of licensure in Massachusetts, all hospitals must comply with all applicable state and federal statutes and regulations pertaining to hospitals, including the Emergency Medical Treatment and Labor Act (EMTALA) statute codified at § 1867 of the Social Security Act, the accompanying regulations in 42 C.F.R. § 489.24, and the related requirements at 42 C.F.R. 489.20(l), (m), (q), and (r). The Commissioner of Public Health's guidance shall provide that the violation of any relevant state or federal statute or regulation pertaining to operation of a hospital, including a violation of EMTALA or related state statutes and regulations, could result in the Department of Public Health refusing to renew or revoking a license under 105 CMR 130.130. In addition, the Commissioner of Public Health's guidance shall provide that the failure of a hospital to provide abortion care when required to avoid the risk of loss of life of a pregnant person or serious harm to their health is a violation of EMTALA and related state statutes and regulations, and that such noncompliance constitutes a regulatory violation which could result in revocation of a hospital's license to operate in the Commonwealth.

Section 4. The Commissioner of Public Health shall forthwith issue guidance to health care providers licensed by the Department of Public Health's Boards of Registration, including nurses, pharmacists, and physician assistants and physicians licensed by the Board of Registration in Medicine, providing that such providers have a professional obligation to ensure treatment of emergency medical conditions consistent with federal and state law, including when necessary to avoid the risk of loss of life of a pregnant person or serious harm to their health and that a health care provider's failure to ensure treatment of an emergency medical condition may violate recognized standards of practice and may be grounds for discipline of the individual's license to practice under 244 CMR 7.00, 247 CMR 10.00, and 243 CMR 1.00 and related state statutes and regulations.

Section 5. The Commissioner of Public Health shall take all appropriate actions to enforce this Executive Order.

Section 6. The Division of Insurance shall forthwith issue a Bulletin to Commercial Health Insurers, Health Maintenance Organizations, and Blue Cross and Blue Shield of Massachusetts, Inc. ("Carriers") to identify the Division of Insurance's expectations regarding Carriers' requirements to provide coverage for abortion, abortion-related care, and medication abortion services. The Division of Insurance shall also forthwith issue a Bulletin to Commercial Insurers Offering Medical Malpractice Coverage to identify the Division of Insurance's expectations regarding medical malpractice coverage for providers that may provide reproductive or gender-affirming care.

Section 7. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.
This is part of:

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Mass. General Laws c.112 § 11I ½
Interference with right to access to reproductive and gender-affirming health care services; abusive litigation; civil actions

(a)
As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:
"Gender-affirming health care services", all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative,

rehabilitative or supportive nature relating to the treatment of gender dysphoria.

"Abusive litigation", litigation or other legal action to deter, prevent, sanction or punish any person engaging in legally-protected health care activity by: (i) filing or prosecuting any action in any state other than the commonwealth where liability, in whole or part, directly or indirectly, is based on legally-protected health care activity that occurred in the commonwealth, including any action in which liability is based on any theory of vicarious, joint or several liability derived therefrom; or (ii) attempting to enforce any order or judgment issued in connection with any such action by any party to the action or any person acting on behalf of a party to the action; provided, however, that a lawsuit shall be considered to be based on conduct that occurred in the commonwealth if any part of any act or omission involved in the course of conduct that forms the basis for liability in the lawsuit occurs or is initiated in the commonwealth, whether or not such act or omission is alleged or included in any pleading or other filing in the lawsuit.

"Legally-protected health care activity", (i) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or the provision of insurance coverage for such services; or (ii) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth; provided, however, that the provision of such a health care service by a person duly licensed under the laws of the commonwealth and physically present in the commonwealth and the provision of insurance coverage for such services shall be legally protected if the service is permitted under the laws of the commonwealth, regardless of the patient's location; and provided further, that "legally-protected health care activity" shall not include any service rendered below an applicable professional standard of care or that would violate anti-discrimination laws of the commonwealth.

"Reproductive health care services", all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative or supportive nature relating to pregnancy, contraception, assisted reproduction, miscarriage management or the termination of a pregnancy.

(b)
Access to reproductive health care services and gender-affirming health care services is a right secured by the constitution and laws of the commonwealth. Interference with this right, whether or not under the color of law, is against the public policy of the commonwealth.

(c)
Any public act or record of a foreign jurisdiction that prohibits, criminalizes, sanctions, authorizes a person to bring a civil action against or otherwise interferes with a person, provider, carrier or other entity in the commonwealth that seeks, receives, causes, aids in access to, aids or abets or provides, or attempts or intends to seek, receive, cause, aid in access to, aid or abet or provide, reproductive health care services or gender-affirming health care services shall be an interference with the exercise and enjoyment of the rights secured by the constitution and laws of the commonwealth and shall be a violation of the public policy of the commonwealth.

(d)
If a person, including any plaintiff, prosecutor, attorney or law firm, whether or not acting under color of law, engages or attempts to engage in abusive litigation that infringes on, interferes with or

attempts to infringe on or interfere with legally-protected health care activity, any aggrieved person, provider, carrier or other entity, including any defendant in such abusive litigation, may institute and prosecute a civil action for injunctive, monetary or other appropriate relief within 3 years after the cause of action accrues.
Any aggrieved person, provider, carrier or other entity, including any defendant in such abusive litigation, may move to modify or quash any subpoena issued in connection with such abusive litigation on the grounds that the subpoena is unreasonable, oppressive or inconsistent with the public policy of the commonwealth pursuant to the Massachusetts Rules of Civil Procedure.
If the court finds for the petitioner in an action authorized by this section, recovery shall be in the amount of actual damages, which shall include damages for the amount of any judgment issued in connection with any abusive litigation, and any and all other expenses, costs or reasonable attorney's fees incurred in connection with the abusive litigation.

(e)
A court may exercise jurisdiction over a person in an action authorized by this section if: (i) personal jurisdiction is found under section 3 of chapter 223A; (ii) the person has commenced any action in any court in the commonwealth and, during the pendency of that action or any appeal therefrom, a summons and complaint is served on the person or the attorney appearing on the person's behalf in that action or as otherwise permitted by law; or (iii) the exercise of jurisdiction is permitted under the Constitution of the United States.

(f)
This section shall not apply to a lawsuit or judgment entered in another state that is based on conduct for which a cause of action exists under the laws of the commonwealth if the course of conduct that forms the basis for liability had occurred entirely in the commonwealth, including any contract, tort, common law or statutory claims.

Mass. Ann. Laws c. 112 § 12J. Experimentation on Human Fetuses Prohibited.
(a) I. No person shall use any live human fetus whether before or after expulsion from its mother's womb, for scientific, laboratory, research or other experimentation. This section shall not prohibit procedures incident to the study of a human fetus while it is in its mother's womb or a neonate; provided that in the best medical judgment of the physician, made at the time of the study, the procedures do not substantially jeopardize the life or health of the fetus or neonate; and provided further that, in the case of a fetus, the fetus is not the subject of a planned abortion. In any criminal proceeding, a fetus shall be conclusively presumed not to be the subject of a planned abortion if the mother signed a written statement at the time of the study, that she was not planning an abortion.

This section shall not prohibit or regulate diagnostic or remedial procedures the purpose of which is: (i) to determine the life or health of the fetus or neonate involved; (ii) to preserve the life or health of the fetus or neonate involved or the mother involved; (iii) to improve the chances of a viable birth for a fetus with a congenital or other fetal conditions that would otherwise substantially impair or jeopardize the fetus's health or viability; or (iv) research approved by an institutional review board applying federal regulations for the protection of fetuses and neonates, that are conducted for the purpose of developing, comparing or improving diagnostic or therapeutic fetal or neonatal interventions to improve the viability or quality of life of fetuses, neonates and children.

For the purposes of this section, "fetus" shall also include an embryo, but shall exclude a pre-

implantation embryo or parthenote as defined in section 2 of chapter 111L and obtained in accordance with said chapter 111L.

A fetus is a live fetus for purposes of this section when, in the best medical judgment of a physician, it shows evidence of life as determined by the same medical standards as are used in determining evidence of life in a spontaneously-aborted fetus at approximately the same stage of gestational development.

For purposes of this section, "institutional review board" shall mean a board that has a minimum of 5 members who meet regularly to review research applying the standards of 45 CFR Part 46 or 21 CFR Parts 50 and 56, as may be amended from time to time.

(a) II. No experimentation shall knowingly be performed upon a dead fetus or dead neonate unless the consent of the parent or guardian has first been obtained; provided, however, that such consent shall not be required for a routine pathological study. In any criminal proceeding, consent shall be conclusively presumed to have been granted for the purposes of this section by a written statement, signed by the parent or guardian who is at least 18 years of age, to the effect that the parent or guardian consents to the use of the dead fetus or dead neonate for scientific, laboratory, research or other experimentation or study. Such written consent shall constitute authorization for the transfer of the dead fetus or dead neonate.

(a) III. No person shall perform or offer to perform an abortion where part or all of the consideration for said performance is that the fetal remains may be used for experimentation or other kind of research or study.

(a) IV. No person shall knowingly sell, transfer, distribute or give away any fetus or neonate for a use which is in violation of this section.

(a) V. Except as hereafter provided, whoever violates the provisions of this section shall be punished by imprisonment in a jail or house of correction for not less than one year nor more than two and one–half years or by imprisonment in the state prison for not more than five years and by the imposition of a fine of up to ten thousand dollars.

(a) VI. In any criminal action under this subsection (a), it shall be a complete defense that at the time of its performance the subject procedure had received the written approval of a duly appointed Institutional Review Board provided that such Board sets forth in its written approval that the procedure does not violate the provisions of this subsection (a) and sets forth therein a reasonable basis for such conclusion and provided that there was not outstanding, at any time that the subject procedure was being performed, a judgment of a court entered pursuant to the provisions of subsection (b), that the subject procedure violates the provisions of this subsection (a). The written approval shall contain a detailed description of the procedure by attachment of a protocol or other writing or otherwise and shall be maintained as a permanent record by such Board or by the hospital or other institution for which the Board acts.

A copy of the written approval, together with any attached protocol or other writing, shall be filed with the office of the attorney general. Such copy shall be available for public inspection at reasonable times. No member of an Institutional Review Board voting not to approve a

procedure, or not present at such a vote, shall be criminally or civilly liable for such approval by the Institutional Review Board or for the performance of the procedure by others. No member of such a Board voting to approve a procedure shall be criminally or civilly liable for such approval by him or the performance of the procedure by others if, based on the written approval and the basis thereof referred to above, such a member acts on a good faith belief that the procedure does not violate the provisions of this section.

(a) VII. Where there is outstanding such a judgment that the subject procedure violates the provisions of this subsection (a), it shall not constitute a defense that the person performing said procedure did not receive notice, or otherwise know, of that judgment; provided, however, that until the attorney general files a copy of the judgment prohibiting a procedure with the Commissioner of Public Health as provided in subsection (b) VII it shall constitute a defense that the person performing the subject procedure did not have notice of the judgment and that he had obtained the approval of the Institutional Review Board for the subject procedure as provided in subsection (a) VI.

(b) I. Whenever a procedure has been approved by a duly appointed Institutional Review Board which the attorney general has reasonable grounds to believe is prohibited under the provisions of subsection (a), he shall file a complaint in the Superior Court sitting in a county where the procedure is performed seeking a determination of whether said procedure violates the provisions of this statute. The complaint shall describe the procedure and the reason or reasons why there are reasonable grounds to believe that the said procedure is in violation of the provisions of this statute. The complaint shall name as defendants those persons within his jurisdiction whom the attorney general reasonably believes have performed, are performing, or are about to perform, the described procedure and those institutions within his jurisdiction in which said procedure has been performed, is being performed, or is about to be performed; such defendants shall be served with a copy of the complaint and a summons in accordance with the provisions of Rule 4 of the Massachusetts Rules of Civil Procedure. Upon the filing of the complaint, notice thereof shall be given by the attorney general, by certified or registered mail, to the Commissioner of Public Health, who in turn shall give the same notice to those institutions in the Commonwealth who, in the judgment of said Commissioner, may be affected by a judgment in the action, and in any event to all of the licensed medical schools in the Commonwealth.

(b) II. Any person or institution which has performed, is performing, or is about to perform, a procedure, may file a complaint in the Superior Court seeking a determination of whether said procedure violates the provision of this statute. Said determination may be sought irrespective of whether said procedure has been approved by an institutional review board. The complaint, which shall have attached thereto a copy of any protocol relative to said procedure, shall describe the procedure and state the reason or reasons which cause the plaintiff to seek the judicial determination. The complaint shall name the attorney general as defendant in the action and he shall be served with a copy of the complaint, including the attached protocol, if any, and the summons in accordance with the provisions of Rule 4 of the Massachusetts Rules of Civil Procedure. Service shall be made by delivery to the office of said attorney general; or by mailing by certified or registered mail to said office. Upon receipt of service, notice shall be given by the attorney general, by certified or registered mail, to the Commissioner of Public Health who in turn shall give notice to those institutions who in the judgment of said commissioner may be affected by a judgment in the action, and in any event to all of the licensed medical schools in the

Commonwealth.

(b) III. Any person or institution desiring to intervene in the action may file a motion to intervene with the court in which the action is pending within ten days from the mailing of such notice, except that the court, for good cause shown, may allow said motion after the ten-day period. A copy of the motion to intervene shall also be served upon the attorney general and upon the persons or institutions initiating the action or against whom the action has been initiated. The motion shall be signed and certified under oath by the applicant and shall state the grounds therefore showing that the applicant claims an interest in the issue of the lawfulness of the subject procedure in that he has performed said procedure, or that he is performing said procedure, or that he is about to perform said procedure, and that the disposition of the action may impair or impede his ability to perform or continue to perform said procedure. Upon a determination by the court that the applicant has satisfied the requirement of this section, the court shall allow the applicant to intervene in the action.

(b) IV. After service of the complaint upon an original party, such party shall serve and file an answer within twenty days unless otherwise directed by order of the court. The answer shall state whether, in the opinion of the pleader, the subject procedure is prohibited by the provisions of this statute and the reason or reasons for such opinion. An intervenor may serve and file a pleading in support of either the complaint or answer within ten days from receipt of notice of the granting of the motion to intervene. Unless the court otherwise orders, no response to the pleading of an intervenor is required.

(b) V. Any party may move for summary judgment, in accordance with Rule 56 of the Massachusetts Rules of Civil Procedure, or for judgment on the pleadings in accordance with Rule 12(c) of the Massachusetts Rules of Civil Procedure. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion.

(b) VI. Any trial on the merits shall be without a jury. The court shall find the facts specially and shall set forth in writing separately its findings of facts and conclusions of law thereon and shall enter judgment accordingly. Such judgment may be appealed to the Supreme Judicial Court. Until reversed, however, by the Supreme Judicial Court, such judgment shall constitute an in rem judgment, binding within the Commonwealth of Massachusetts, that the subject procedure is prohibited or is not prohibited by the provisions of this statute.

(b) VII. Upon the entry of a judgment that a procedure is prohibited by the provisions of this statute, the attorney general shall promptly give notice by publication in a newspaper of general circulation in each of the counties of the Commonwealth and by sending notification by registered or certified mail to each licensed hospital and medical school in the Commonwealth; such notice shall contain a description of the prohibited medical procedure and shall state that the performance of such procedure constitutes a crime punishable under the provisions of this statute. A copy of all judgments and accompanying opinions permitting or prohibiting a procedure shall be filed by the attorney general with the Commissioner of Public Health. The Commissioner of Public Health shall maintain a permanent file of such judgments and opinions for public inspection.

(b) VIII. Any action brought under this statute to determine whether a procedure is prohibited by the provisions of this statute and any appeal of a judgment that a procedure is or is not prohibited by the provisions of this statute shall be advanced for a prompt and speedy disposition consistent, however, with a reasonable opportunity being afforded to the parties to properly prepare the case.

(b) IX. If any section, subsection, paragraph, sentence or clause of this statute is held to be unconstitutional, such holding shall not affect the remaining portions of this statute.

(b) X. Upon receipt of a request from an institution conducting, or preparing to conduct, research pursuant to this section, the attorney general shall provide a written advisory opinion concerning whether such research is regulated, prohibited, authorized by this chapter by or whether it is exempt from this chapter. If in the opinion of the attorney general the research described in the request exempt from, or authorized by this chapter, the opinion shall constitute an affirmative defense to any criminal prosecution brought pursuant to this section. Opinions issued by the attorney general pursuant to this section shall be maintained in a publicly accessible manner by the attorney general and shall be filed with the commissioner of public health.

Mass. Ann. Laws ch. 112 § 12L. Abortion — Personal Decision.
The commonwealth, or a subdivision thereof, shall not interfere with a person's personal decision and ability to prevent, commence, terminate or continue their own pregnancy consistent with this chapter, or restrict the use of medically appropriate methods of abortion or the manner in which medically appropriate abortion is provided.
Amended by **St.2020, c.263**, effective December 29, 2020
Amended by **St.2022, c.127, §12** effective July 29, 2022

Mass. Ann. Laws ch. 112 § 12M. Abortion - Pregnancy of Less Than 24 Weeks.
A physician, physician assistant, nurse practitioner or nurse midwife may perform an abortion consistent with the scope of their practice and license if, in their best medical judgment, the pregnancy has existed for less than 24 weeks.
Amended by **St.2020, c.263**, effective December 29, 2020

Mass. Ann. Laws ch. 112 § 12N. Abortion — Pregnancy of 24 Weeks or More.
If a pregnancy has existed for 24 weeks or more, no abortion may be performed except by a physician, and only if in the best medical judgment of the physician it is: (i) necessary to preserve the life of the patient; (ii) necessary to preserve the patient's physical or mental health; (iii) warranted because of a lethal fetal anomaly or diagnosis; or (iv) warranted because of a grave fetal diagnosis that indicates that the fetus is incompatible with sustained life outside of the uterus without extraordinary medical interventions.

Mass. Ann. Laws ch. 112 § 12N½. Abortion — Independent Consideration Required Under § 12N; Annual Report.

(a) Each circumstance permitting an abortion for a pregnancy that has existed for 24 weeks or more under section 12N shall be considered independently by a treating physician and a patient or the patient's health care proxy. No medical review process shall override a determination by a

treating physician and a patient or the patient's health care proxy to provide an abortion consistent with said section 12N.

(b) Annually, not later than September 1, every facility authorized to perform health care services under section 12N shall submit to the department of public health a written report that includes the facility's procedures and processes for providing services consistent with said section 12N and this section.

Mass. General Laws c.112 § 12O
Abortion performed pursuant to Sec. 12N; protection of unborn child

If an abortion is performed pursuant to section 12N, the facility where the abortion is performed shall maintain life-supporting equipment, as defined by the department of public health, to enable the physician performing the abortion to take appropriate steps, in keeping with good medical practice and consistent with the procedure being used, to preserve the life and health of a live birth and the patient.
Amended by **St.2020, c.263**, effective December 29, 2020

Mass. General Laws c.112 § 12P
Abortion performed pursuant to Sec. 12M or 12N; written informed consent; facilities

Except in an emergency requiring immediate action, an abortion shall not be performed under section 12M or section 12N unless the written informed consent of the proper person has been obtained as set forth in section 12R.
Except in an emergency requiring immediate action, an abortion shall not be performed under section 12N unless performed in a hospital duly authorized to provide facilities for obstetrical services.
Amended by **St.2020, c.263**, effective December 29, 2020
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Mass. Ann. Laws ch. 112 § 12Q. Abortion — Collection of Data; Report.
The commissioner of public health shall collect aggregate data on abortions performed by a physician, physician assistant, certified nurse practitioner or certified nurse midwife on a form promulgated by the commissioner that shall include, but not be limited to, the: (i) date and place of the abortions performed; (ii) ages of the pregnant patients; (iii) method used to perform the abortions; and (iv) gestational age when the abortions were performed. The commissioner shall prepare from these forms such statistical tables with respect to maternal health, abortion procedures and gestational age as the commissioner deems useful and shall make an annualreport thereof to the general court. Nothing in this section shall limit the authority of the department of public health to require reports pursuant to sections 24A and 25A of chapter 111.

Mass. Ann. Laws ch. 112 § 12R. Abortion — Informed Consent; Confidentiality; Patients Under Age 16.

An abortion shall not be performed without first obtaining the written informed consent of the patient seeking an abortion. The commissioner of public health shall prescribe a form to use in obtaining such consent. A patient seeking an abortion shall sign the consent form in advance of the time for which the abortion is scheduled, except in an emergency requiring immediate action; provided, however, that this requirement shall not impose any waiting period between the signing of the consent form and the patient obtaining the abortion. The patient shall then return it to the physician, physician assistant, nurse practitioner or nurse midwife performing the abortion

who shall maintain it in their files and who shall destroy it 7 years after the date upon which the abortion is performed.

The consent form and any other forms, transcript of evidence or written findings or conclusions of a court shall be confidential and shall not be released to any other person except by the patient's written informed consent or by a proper judicial order, other than to the patient themselves, to whom such documents relate, the physician, physician assistant, nurse practitioner or nurse midwife who performed the abortion or any person whose consent is obtained pursuant to this section or under any other applicable state or federal law. If a patient is less than 16 years of age and has not married, an abortion shall not be performed unless the physician, physician assistant, nurse practitioner or nurse midwife first obtains both the consent of the patient and that of 1 of the patient's parents or guardians, except as hereinafter provided. In deciding whether to grant such consent, a patient's parent or guardian shall consider only the patient's best interests. If a patient less than 16 years of age has not married and if the patient is unable to obtain the consent of 1 of their parents or 1 of their guardians to the performance of an abortion, or if they elect not to seek the consent of a parent or a guardian, or in the case of incest, a judge of the superior court department of the trial court of the commonwealth shall, upon petition or motion, and after an appropriate hearing held in person or via teleconference at the patient's option, authorize a physician, physician assistant, nurse practitioner or nurse midwife to perform the abortion if the judge determines that the patient is mature and capable of giving informed consent to the procedure or, if the judge determines that the patient is not mature, that performance of an abortion would be in the patient's best interests. A patient less than 16 years of age may participate in proceedings in the superior court department of the trial court on their own behalf and the court may appoint a guardian ad litem for the patient. The court shall, however, advise the patient that they have a right to court appointed counsel and shall, upon the patient's request, provide the patient with such appointed counsel. Proceedings in the superior court department of the trial court under this section shall be confidential and shall be given such precedence over other pending matters that the court may reach a decision promptly and without delay so as to serve the best interests of the patient. The chief justice of the superior court department of the trial court shall establish procedures for conducting proceedings under this section promptly and without delay including, but not limited to, procedures to accommodate the patient outside of normal court hours. A judge of the superior court department of the trial court who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting their decision and shall order a record of the evidence to be maintained including the findings and conclusions. Exclusive jurisdiction over appeals of a denial by the superior court of authorization for a patient to obtain an abortion is hereby conferred on the supreme judicial court or a single justice thereof. Notwithstanding section 12F, a patient may provide consent and consent shall be granted under subparagraphs (ii) to (vi), inclusive, of said section 12F for abortion if the minor is not less than 16 years of age.

M.G.L. 266 §120E1/2. REPRODUCTIVE HEALTH CARE FACILITIES; WITHDRAWAL ORDERS FOR INDIVIDUALS IMPEDING ACCESS TO OR DEPARTURE FROM FACILITY; INTIMIDATION; PENALTY FOR VIOLATIONS

(a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise: "Driveway", an entry from a public street to a public or private parking area used by a reproductive health care facility. "Entrance", a door to a reproductive health care facility that directly abuts the public sidewalk; provided, however, that

if the door does not directly abut the public sidewalk, the "entrance" shall be the point at which the public sidewalk intersects with a pathway leading to the door. "Impede", to obstruct, block, detain or render passage impossible, unsafe or unreasonably difficult. "Law enforcement official", a duly authorized member of a law enforcement agency, including a member of a municipal, metropolitan or state police department, sheriffs or deputy sheriffs. "Reproductive health care facility", a place, other than within or upon the grounds of a hospital, where abortions are offered or performed including, but not limited to, the building, grounds and driveway of the facility and a parking lot in which the facility has an ownership or leasehold interest.

(b) A law enforcement official may order the immediate withdrawal of 1 or more individuals who have on that day substantially impeded access to or departure from an entrance or driveway to a reproductive health care facility. A withdrawal order issued pursuant to this section shall be in writing and shall include the following statements:

(i) the individual or individuals have substantially impeded access to or departure from the reproductive health care facility;

(ii) the individual or individuals so ordered shall, under the penalty of arrest and prosecution, immediately withdraw and cease to stand or be located within at least 25 feet of an entrance or driveway to the reproductive health care facility; and

(iii) the order shall remain in place for 8 hours or until the close of business of the reproductive health facility, whichever is earlier. This subsection shall apply during the business hours of a reproductive health care facility. This subsection shall also apply only if the 25–foot boundary is clearly marked and subsections (a) through (c), inclusive, of this section are posted outside of the reproductive health care facility.

(c) A person who fails to comply with a withdrawal order pursuant to subsection (b) shall be punished, for the first offense, by a fine of not more than $500 or not more than 3 months in a jail or house of correction or by both such fine and imprisonment and, for each subsequent offense, by a fine of not less than $500 nor more than $5,000 or not more than 21/2 years in a jail or house of correction or by both such fine and imprisonment.

(d) A person who, by force, physical act or threat of force, intentionally injures or intimidates or attempts to injure or intimidate a person who attempts to access or depart from a reproductive health care facility shall be punished, for the first offense, by a fine of not more than $2,000 or not more than 1 year in a jail or house of correction or by both such fine and imprisonment and, for each subsequent offense, by a fine of not less than $10,000 nor more than $50,000 or not more than 21/2 years in a jail or house of correction or not more than 5 years in a state prison or by both such fine and imprisonment. For the purpose of this subsection, "intimidate" shall mean to place a person in reasonable apprehension of bodily harm to that person or another.

(e) A person who impedes a person's access to or departure from a reproductive health care facility with the intent to interfere with that person's ability to provide, support the provision of or obtain services at the reproductive health care facility shall be punished, for the first offense, by a fine of not more than $1,000 or not more than 6 months in a jail or house of correction or by both such fine and imprisonment and, for each subsequent offense, by a fine of not less than $5,000 nor more than $25,000 or not more than 21/2 years in a jail or house of correction or not more than 5 years in the state prison or by both such fine and imprisonment.

(f) A person who knowingly impedes or attempts to impede a person or a vehicle attempting to access or depart from a reproductive health care facility shall be punished, for the first offense, by a fine of not more than $500 or not more than 3 months in a jail or house of correction or by both such fine and imprisonment and, for each subsequent offense, by a fine of not less than $1,000 nor more than $5,000 or not more than 21/2 years in a jail or house of correction or by both such fine and imprisonment.

(g) A person who recklessly interferes with the operation of a vehicle that attempts to enter, exit or park at a reproductive health care facility shall be punished, for the first offense, by a fine of not more than $500 or not more than 3 months in a jail or house of correction or by both such fine and imprisonment and, for each subsequent offense, by a fine of not less than $1,000 nor more than $5,000 or not more than 21/2 years in a jail or house of correction or by both such fine and imprisonment.

(h) A person who fails to comply with a withdrawal order pursuant to said subsection (b) or who is found in violation of subsection (c), (d), (e), (f) or (g) may be arrested without a warrant by a law enforcement official.

(i) If a person or entity fails to comply with a withdrawal order pursuant to subsection (b) or who is found in violation of subsection (c), (d), (e), (f) or (g), an aggrieved person or entity or the attorney general or both may commence a civil action. The civil action shall be commenced either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which the person or entity complained of resides or has a principal place of business.

(j) In an action pursuant to subsection (i), a court may award as remedies:

(1) temporary, preliminary and permanent injunctive relief;
(2) compensatory and punitive damages; and
(3) costs, attorneys' fees and expert witness fees.

In an action brought by the attorney general pursuant to subsection (i), the court may also award civil penalties against each defendant in an amount not exceeding:

(A) $5,000 for a nonviolent violation and $7,500 for other first violations; and
(B) $7,500 for a subsequent nonviolent violation and $12,500 for any other subsequent violation. (k) A violation of an injunction entered by a court in an action brought pursuant to subsection (i) shall be a criminal offense under section 11J of chapter 12.