GUYANA

ACT No. 7 OF 1995

MEDICAL TERMINATION OF PREGNANCY ACT 1995

I assent.

CHEDDI JAGAN,
President.
14th June, 1995

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AN ACT to reform the law relating to medical terminations of pregnancies, to enhance the dignity and sanctity of life by reducing the incidence of induced abortion, to enhance the attainment of safe motherhood by eliminating deaths and complications due to unsafe abortion, to prescribe those circumstances in which any woman who voluntarily and in good faith wishes to terminate her pregnancy may lawfully do so and to provide for matters connected therewith.

A.D. 1995

Enacted by the Parliament of Guyana: -

Short title and application.

1.(1) This Act may be cited as the Medical Termination of Pregnancy Act 1995.

(2) This Act applies to treatment for the termination of pregnancy by medication, surgical procedures or other means.

Interpretation.

2.(1) In this Act -

(a) "approved institution" means any institution approved by the Minister for the purposes of this Act;

(b) **"authorised medical practitioner" means any person registered as a duly qualified medical practitioner under the Medical Practitioners Act 1991 and, being either a specialist in obstetrics and gynaecology with such experience as may be prescribed or a medical practitioner authorised in accordance with regulations made under section 16 to perform medical terminations of pregnancies;**

(c) "foetus" includes an embryo;

(d) "institution" means -

(i) a hospital;

(ii) a clinic;

(iii) a nursing home, including a maternity home;

(iv) any other facility where arrangements for the treatment of termination of pregnancy exist;

(e) "medical practitioner" means any person registered as a duly qualified medical practitioner under the Medical Practitioners Act 1991;

(f) "nurse" means any person registered as a duly qualified nurse under any law, for the time being in operation in Guyana, relating to the registration of nurses;

(g) "person of unsound mind" means an idiot or a person who is suffering from mental derangement;

(h) "pregnancy" means an intra-uterine human pregnancy where the foetus is viable;

(i) "prescribed" means prescribed by regulations made by the Minister;

(j) "termination of pregnancy" means termination of human pregnancy with an intention other than to produce a live birth.

(2) For the purposes of this Act, the duration of a pregnancy shall be determined -

(a) by calculating from the first day of the last normal menstruation of the pregnant woman and ending on the last day of the relevant week; and

(b) by clinical examination.

3.(1) Notwithstanding sections 78, 79, 80 and 99 of the Criminal Law (Offences) Act, the treatment for the termination of a pregnancy shall be lawful if administered in accordance with the provisions of this Act.

Modification of sections 78, 79, 80 and 99 of the Criminal Law (Offences) Act.

(2) **For the removal of doubt it is hereby declared that nothing in this Act shall be construed as affecting the provisions of section 99 of the Criminal Law (Offences) Act relating to the offence of child destruction.**

COUNSELLING

4 **The Minister shall make regulations for pre- and post-abortion counselling for any woman seeking treatment regarding the medical termination of her pregnancy and, where appropriate, her partner; to facilitate such counselling such regulations shall provide for a waiting period of forty-eight hours after the woman has made a request for such medical termination of pregnancy.**

Counselling.

TERMINATION OF PREGNANCY

5.(1) Subject to the provisions of this Act, the treatment for the termination of a pregnancy of not more than **eight** weeks duration by any lawful and appropriate **method other than a surgical procedure** may be administered **or supervised** by a medical practitioner.

Termination of pregnancy of not more than eight weeks duration.

(2) It is not necessary that the treatment

referred to in subsection (1), in the case referred to therein, should be administered in an approved institution and in any such case it shall not be necessary to establish the matters referred to in section 6(1).

Termination of pregnancy of more than eight weeks and not more than sixteen weeks duration.

6.(1) Where a pregnancy sought to be terminated is of more than **eight** weeks duration **and of not more than twelve weeks duration** or the treatment for the termination of the pregnancy **is by any lawful and appropriate medical preparation**, then subject to the provisions of this Act, the treatment **of such a pregnancy** may be administered by an **authorised** medical practitioner **and any assistant acting under such authorised medical practitioner's directions** but such treatment shall be administered only -

(a) in an approved institution approved for that purpose, having regard to the medical procedure involved and the duration of the pregnancy; and

(b) where, in the opinion of the **authorised** medical practitioner administering **or directing** the treatment -

(i) the continuance of the pregnancy would involve risk to the life of the pregnant woman or grave injury to her physical or mental health;

(ii) there is substantial risk that if the child were born, it would suffer such physical or mental abnormalities as to be seriously handicapped; or

(iii) on account of being a person of unsound mind, the pregnant woman is not capable of taking care of an infant;

(c) where the pregnant woman reasonably believes that her pregnancy was caused by an act of rape or incest and submits a statement to that effect;

(d) where the pregnant woman is known to be HIV positive; or

(e) where there is clear evidence that the pregnancy resulted in spite of the use in good faith of a recognized contraceptive method by the pregnant woman or her partner:

Provided that the treatment for the termination of a pregnancy of more than twelve weeks duration and of not more than sixteen weeks duration may be administered by an authorised medical practitioner in an approved institution, if two medical practitioners are of the opinion, formed in good faith, of the matters specified in paragraphs (b), (c), (d) or (e);

(2) In determining whether the continuance of a pregnancy would involve risk of grave injury to the health of a pregnant woman as mentioned in subsection (1)(b)(i), a medical practitioner **or authorised medical practitioner** shall take into account the pregnant woman's **entire** social and economic environment, whether actual or foreseeable.

Termination of pregnancy of more than sixteen weeks duration.

7. The treatment for the termination of a pregnancy of more than sixteen weeks duration may be administered by an authorised medical practitioner in an approved institution, if three medical practitioners are of the opinion, formed in good faith, that the treatment to terminate the pregnancy is necessary to save the life of a pregnant woman or to prevent grave permanent injury to the physical or mental health of the woman or her unborn child.

Consent.

8.(1) Except where the pregnant woman is of unsound mind, a medical practitioner or an authorised medical practitioner, as the case may be, may require the written or oral consent of the pregnant woman before administering treatment for the termination of her pregnancy.

(2) The treatment for the termination of a pregnancy of a woman of unsound mind of any age shall not be administered except with the written or oral consent of her guardian.

(3) In the treatment of the termination of a pregnancy of a child of any age, while the medical practitioner or authorised medical practitioner, as the case may be, may encourage the child to inform her parents, he is not required either to obtain the consent of her parents or guardian or to notify them.

(4) In the treatment of the termination of a pregnancy of a woman of any marital status, while the medical practitioner or authorised medical practitioner, as the case may be, may encourage the patient to inform her partner, he is not required either to obtain the partner's consent or to notify him.

Non-liability of medical practitioner.

9. No medical practitioner or authorised medical practitioner or person authorised by him shall be in any way liable for the carrying out of, or the supervision of treatment to terminate a pregnancy where the pregnant woman has consented to such treatment, unless such treatment was carried out in a negligent manner.

Non-application of certain provisions.

10. The following sections do not apply where the treatment to terminate the pregnancy is immediately necessary to save the life of the pregnant woman or to prevent grave permanent injury to her physical or mental health, namely -

(a) section 4 relating to counselling;

(b) sections 6 and 7 relating to the number of medical opinions required; and

(c) section 8 relating to consent,

and in such circumstances any medical practitioner may administer the treatment.

Conscientious objection to participate in treatment.

11.(1) Subject to subsection (4), no person shall be under any legal duty to participate in any treatment of a patient for the termination of a pregnancy to which he has a conscientious objection.

(2) In any legal proceedings the burden of proof of conscientious objection shall lie on the person claiming such objection.

(3) The burden of proof referred to in subsection (2) may be discharged by any person by a statement on oath or affirmation to the effect that he has a conscientious objection to participate in any treatment authorised by this Act.

(4) Nothing in subsection (1) shall affect the duty of a person to participate in treatment for the termination of a pregnancy that is immediately necessary to save the life of a pregnant woman or to prevent grave permanent injury to her physical or mental health.

PENALTIES

Penalties for offences.

12.(1) Where by or under any provision of this Act any person or any approved institution is required to maintain any document or record, and such person or institution **deliberately** refuses or fails to maintain such document or record, or maintains such document or record but it is incomplete or contains any statement which is false or misleading in any material particular, that person or, in the case of an approved institution, the person owning or managing the institution shall be liable, on summary conviction, to a fine of **twenty** thousand dollars and imprisonment for six months.

(2) Where any statement made by a pregnant woman under section **6** is **intentionally** false or misleading in any material particular, the pregnant woman shall be liable, on summary conviction, to a fine of **seven** thousand dollars and imprisonment for six months.

(3) Where any medical practitioner, **authorised medical practitioner,** approved institution or person employed by, or working in, **or any other person with lawful access to** any approved institution contravenes section **14**, the medical practitioner, the person owning or managing the approved institution, or other person shall be liable, on summary conviction, to a fine of **one hundred** thousand dollars and imprisonment for one year.

(4) Any person who contravenes or refuses or fails to comply with any provision of this Act or the regulations made thereunder, and for which no

penalty has been prescribed by this Act or the Criminal Law (Offences) Act, shall be liable, on summary conviction, to a fine of ten thousand dollars and imprisonment for three months.

MISCELLANEOUS

Statement by guardian.

Any statement required to be made by a pregnant woman under this Act, shall, where she is of unsound mind, be made by her guardian, and any reference in this Act to a statement by a pregnant woman shall, in such a case be construed as a reference to a statement by the guardian of the pregnant woman.

Confidential information.

.(1) **A record of every treatment for the termination of a pregnancy shall be kept at the premises where the treatment was administered by the medical practitioner, authorised medical practitioner or person owning or managing an approved institution, containing the name, the address, the treatment and reasons therefor and such other relevant particulars as may be prescribed.**

(2) Every medical practitioner, **authorised medical practitioner**, the person owning or managing an approved institution or person employed by, or working in, **and all other persons with lawful access to** any approved institution -

(a) shall deal with as secret and confidential all information, documents and matters in respect of any matter dealt with by or under this Act; and

(b) shall not make use of any such information to the advantage or benefit of himself or any other person.

(3) Nothing in subsection (1) shall be deemed to prevent any medical practitioner, **authorised medical practitioner, the person owning or managing an approved institution, all senior personnel** employed therein, **or any other person with lawful access** thereto from disclosing, or entitle him to refuse to disclose, to the court or person referred to in paragraph (b) any information, document or matter referred to in subsection (1) -

(a) for the purpose of discharging his functions under this Act, or for the purpose of complying with any provision of this Act; or

(b) when lawfully required to make the disclosure by any court, or by any person having authority to do so under any law, for the purposes of any legal proceedings in respect of the contravention of any provision of this Act or of the Criminal Law (Offences) Act.

Powers of entry.

15.(1) The Chief Medical Officer or any public officer authorised by him in writing may at all reasonable times enter any premises -

(a) where a medical practitioner administers **or supervises** or is reasonably suspected to administer **or supervise** treatment for the termination of pregnancy; or

(b) of any approved institution,

for the purpose of ascertaining whether there has been any contravention of, or failure to comply with, any provision of this Act or any regulations made thereunder.

(2) Subsection (1) shall be without prejudice to the powers of a member of the Police Force while investigating any complaint or information relating to the commission of an offence.

(3) Nothing in the exercise of the authority conferred by subsections (1) and (2) shall over-ride the paramount consideration of the health of the patient and the authority conferred on officers acting under this section is limited to observation and evidence-taking and does not include the power to obstruct any procedures observed.

Power to make regulations.

16.(1) The Minister may make regulations for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, and in particular, such regulations may provide for all or any of the following matters -

(a) defining the conditions for the authorisation of registered medical practitioners as authorised medical practitioners;

(b) defining the conditions which an institution must satisfy before it is granted approval as an approved institution and the consequences of a breach of any such conditions;

(c) in respect of the records to be kept by medical practitioners or other persons of the pregnancies terminated and in respect of the submission of the records to the Chief Medical Officer, together with other prescribed information;

(d) in respect of counselling services referred to in section 4 to be provided to a pregnant woman desirous of having treatment for the termination of her pregnancy and to a woman who has had such treatment;

(e) regarding the appointment and operation of any monitoring or advisory body to advise the Minister on securing the effective operation of this Act;

(f) any form and its contents necessary in the administration of this Act;

(g) any other matter that is required to be or may be, prescribed by the Minister.

Passed by the National Assembly on 4th May, 1995.

F.A. Narain,
Clerk of the National Assembly.

(BILL No. 20/1994)