

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

County  
~~City~~ of ..... NIAGARA .....  
~~Town~~  
~~Village~~

Local Law No. .... 7 ..... of the year 19 78 .....

A local law ..... regarding abortion procedures .....  
(Insert title)

Be it enacted by the ..... Legislature ..... of the  
(Name of Legislative Body)

County  
~~City~~ of ..... Niagara ..... as follows:  
~~Town~~  
~~Village~~

Section 1. DEFINITIONS

"Abortion" means an act committed upon or with respect to a female, whether by another person or by the female herself, whether she is pregnant or not, whether directly upon her body or by the administering, taking or prescription of drugs or in any other manner, with an intent to cause a miscarriage of such female.

"Department" shall mean the Niagara County Health Department.

"Medical Counselling" shall mean the description of the abortion procedure, description of the particular medical risks incurred through the particular medical consequences of the abortion procedure either to the woman or to her unborn child.

"Medical Emergency" shall mean that an immediate and grave threat to the life or physical health of the female would be caused by the delay occasioned by the requirements of consent or notice imposed by Sections "2" or "3" of this Local Law.

Section 2. CONSENT OF FEMALE

(A) Except as provided in Section "4" of this Law, no physician shall perform or induce an abortion upon any female unless said female certifies her consent to the abortion in writing. Said consent must contain a statement by the female that it is informed and freely given, that it is not the result of coercion, and that the materials specified in Section "5" (A) of this Law, have been provided, that the female has read and understood them, or, if she cannot read, that she has had their contents explained to her.

(B) Except as provided in Section "4" of this Law, the consent of a female to an abortion shall be obtained not more than 30 days before the abortion and not less than twenty-four hours before said abortion. The time of obtaining said consent shall be certified in writing by the physician performing or inducing the abortion.

(C) Except as provided in Section "4" of this Law, no abortion shall be performed or induced unless, prior to said abortion the attending physician: (1) certifies in writing that the female has been provided with the written materials specified in Section "5" (A) of this Law, and (2) causes any notice and materials to be given to the extent required and in the manner specified by Section "3" of this law and (3) engages in the medical counselling of the female at least 24 hours prior to the proposed abortion at which time the physician shall inform the female of the following in order to insure that her written consent is informed and freely given:

(i) that according to the best judgment of the attending physician, she is pregnant;

(ii) the number of weeks elapsed from the probable time of conception, based upon information provided by the female with regard to the time of her last menstrual period and/or after a history and medical examination and appropriate laboratory tests.

(iii) A description in detail of the following anatomical physiological characteristics of the particular unborn child at the gestational point of development at the time that the abortion is to be performed: appearance, mobility, tactile sensitivity, brain and heart function, the presence of internal organs and external members.

Said description shall also include a visual presentation through photographs of the development of a human fetus, with emphasis on the state of development at which the proposed abortion is to be performed.

(iv) that an unborn child may be viable and capable of surviving outside the womb by natural or artificial life support systems and that an attending physician has an obligation to provide immediate medical care for a viable child that is the result of an abortion.

(v) that abortion is a major surgical procedure which could result in the following complications: hemorrhage, perforated uterus, infection, menstrual disturbances, sterility, miscarriage, pre-maturity in subsequent pregnancies, psychological problems and emotional disturbances.

(vi) that public and private agencies are available to assist the female during pregnancy, and after birth, and that various agencies are available to assist in placing a child for adoption.

(vii) such other and further information as the physician in the exercise of his medical judgment shall determine to be necessary for the female to give an informed consent to the proposed abortion, with full knowledge of its nature and consequences.

(D) The attending physician shall also give the female instructions on how to insure a health and safe recovery should the female decide to proceed with the proposed abortion.

(E) Except as provided in Section "4" of this Law, no abortion shall be performed or induced upon or with respect to any female who is married except if her written informed consent is obtained in the manner provided in Sections "2"(a) and (b) above and except by a physician who is in possession of proof that at least five (5) days before the abortion, the spouse of said female received written notice of the proposed abortion and copies of the materials provided in Section "5"(a) of this Law.

### Section 3. CONSENT OF MINOR : NOTICE

(A) Except as provided in Section "4" of this Law, no abortion shall be performed or induced upon with respect to any female under the age of 18 who has never been married, except if her written informed consent is obtained in a manner provided in Section "2" of this Law and except by a physician who:

(i) is in possession of a written consent of the abortion signed no more than thirty (30) days prior to said abortion nor less than twenty-four (24) hours before said abortion by a parent, guardian or other person having legal custody of such female; or

(ii) is in possession of proof that at least five (5) days before the abortion, a parent, guardian, or other person having legal custody of such female received written notice of the proposed abortion and copies of the materials provided in Section "5"(A) of this Law, or

(iii) is in possession of a written waiver of notice of the abortion, signed no more than thirty (30) days, no less than twenty-four (24) hours before the proposed abortion by a parent, guardian or other person with legal custody; or

(iv) is in possession of a consent obtained by order of a Justice of the Supreme Court of the State of New York for good cause shown, after such hearing as said Justice deems necessary; or

(v) has made a reasonable judgment, in good faith, based upon documentary evidence, that such female is eighteen (18) years of age or older, or has been or is married.

(B) The proof of written notice, specified in subdivision (e) of Section "2" in paragraph (ii) of subdivision (a) of Section "3" of this law, shall consist of:

(i) a return receipt evidencing delivery and receipt of the notice by registered or certified mail or if acceptance was refused, the original envelope bearing a notation by the postal authorities that receipt was refused and an affidavit by or on behalf of the person seeking to establish the giving of notice that a copy of such written notice and refusal to accept was forthwith sent to the parent, guardian, or other person having legal custody of such person, by ordinary mail to the same address; or

(ii) an affidavit or affirmation by a physician licensed to practice medicine in this state that he or she has personally delivered the notice.

### Section 4. MEDICAL EMERGENCY

The requirements of notice under Section "3" of this Law and/or consent required by Section "2" shall not be imposed when a physician makes a finding in good faith and based upon reasonable medical judgment that a medical emergency exists. The existence of a medical emergency shall be certified in writing by the attending physician and the grounds upon which the physician relies to make such determination shall also be stated.

Section 5 - PRINTED INFORMATION; FORMS; PROMULGATION

(A) The Department shall cause to be published printed materials to be supplied by the attending physicians as provided in Sections "2"(a), "2"(c) and "3"(a)(ii) of this Law:

(i) Materials designed to inform concerned parties of public and private agencies and services available to assist the female through pregnancy, at childbirth, (and while the child is a minor) including a list of reputable adoption agencies. Such materials shall include a comprehensive list of the agencies available and a description of the manner in which they might be contacted.

(ii) materials designed to inform concerned parties of the anatomical and physiological characteristics of the unborn child at various gestational points of development including appearance, mobility, tactile sensitivity, brain and heart function, the presence of internal organs and external members. Said materials shall include a visual presentation through photographs of the development of a human fetus from conception to birth.

(iii) materials designed to inform concerned parties that it is the policy of the County of Niagara to favor childbirth over abortion.

(iv) the materials required under subsection (a), (b) and (c) of this Section shall be available from the Department upon request and in appropriate number to any persons, facility or hospital.

(B) The Department shall also make available to physicians performing abortions in the County of Niagara notice laws, consent forms, abortion report forms and complication report forms.

(C) The requirement of giving notice, or obtaining written consent, of distributing the materials listed in Section "5"(A) of this Law, or of completion of abortion reports or complication reports shall not be imposed whenever the Department certifies in writing that the forms required by this Law are not presently available. The Department shall use its best efforts to insure that all of the forms required by this Law are in existence and are available to any interested person, facility or hospital.

Section 6 - RECORDS

(A) All abortion facilities and hospitals in which abortions are performed or induced shall keep records, including admission and discharge notes, histories, results of tests and examinations, nurses work sheets, social services records, and progress notes, and shall further keep a copy of all written certifications provided for in this Local Law as well as a copy of records of notice and consent forms, proofs of written notice, abortion reports, and complication reports required under this Local Law. Such records shall be maintained in the permanent files of the hospital or abortion facility for a period of not less than seven (7) years.

Section 7 - INSPECTION

(A) The medical records and the physical facilities of all abortion facilities and hospitals in which abortions are performed shall be open to inspection at any time by the Department for purposes of gathering statistical data and insuring compliance with the provisions of the Local Law.

(B) The medical records of abortion facilities and hospitals in which abortions are performed and all information contained therein shall remain confidential and shall be used by the Department only for the purposes set forth in paragraph (A) of this Section.

(C) The Department shall physically inspect all abortion facilities at least once every six (6) months to insure compliance with this Local Law and all laws, ordinances, rules and regulations of the State of New York and County of Niagara concerning health and sanitation.

## Section 8 - REPORTING

(A) An individual abortion report for each abortion performed or induced upon a woman shall be completed by the attending physician. The report shall be confidential and shall not contain the name of the female. This report shall include:

- (1) Patient number
- (2) Name and address of the abortion facility or hospital
- (3) Date of abortion
- (4) Zip code of residence of pregnant female
- (5) Age of pregnant female
- (6) Race
- (7) Marital status
- (8) Number of previous pregnancies
- (9) Years of education
- (10) Number of living children
- (11) Number of previous induced abortions
- (12) Date of last induced abortion
- (13) Date of last live birth
- (14) Method of contraception at time of conception
- (15) Date of beginning of last menstrual period
- (16) Medical condition of female at time of abortion
- (17) R H type of pregnant female
- (18) Type of abortion procedure
- (19) Complications by type
- (20) Type of procedure done after the abortion
- (21) Type of family planning recommended
- (22) Type of additional counselling given
- (23) Signature of attending physician
- (24) The certifications provided for in this Local Law

(B) An individual complication report for any post-abortion care performed upon a woman shall be completed by the physician providing such post-abortion care. This report shall include:

- (1) The date of the abortion
- (2) The name and address of the abortion facility of hospital where the abortion was performed
- (3) The nature of the abortion complication diagnosed or treated

(C) All abortion reports shall be signed by the attending physician and submitted to the Department within thirty (30) days from the date of the abortion. All complication reports shall be signed by the attending physician and submitted to the Department within thirty (30) days from the date of the post-abortion care.

(D) A copy of the abortion report shall be made a part of the medical record of the patient of the facility or hospital in which the abortion was performed.

(E) The Department shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom, and shall annually publish a statistical report based on such date from abortions performed in the previous calendar year.

## Section 9 - ENFORCEMENT; PENALTIES

(A) The County Attorney or any person whose consent is required either pursuant to this Local Law or under common law, may petition the Supreme Court for an order enjoining the performance of any abortion performed contrary to the provisions of this Local Law.

(B) Any person who willfully violates any of the provisions of this Local Law shall be subject to a fine and civil penalty of not less than \$500.00 nor more than \$1,000.00 for each violation.

Section 10 - SEVERABILITY

(A) Should any provision of this Local Law be construed by any court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, such invalidity, illegality, unconstitutionality, or unenforceability shall not extend to any other provision or provisions of this Local Law.

Section 11 - CONSTRUCTION

(A) Nothing in this new law shall be construed:

(i) to alter common law and statutory requirements of informed consent to medical procedures; or

(ii) to diminish the common law and statutory rights of a parent, guardian or other person having legal custody of minor children; or

(iii) to limit the jurisdiction of any court of this state; or

(iv) to deny to any person access to any court of this state.

Section 12 -

This law shall take effect on the sixtieth (60) day after it shall have become a law except that the provisions of Section "5" with regard to the publication and distribution of forms by the Niagara County Department of Health shall take effect immediately.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. 7 of 1978  
County  
of the ~~City~~ of Niagara was duly passed by Niagara County Legislature  
~~Town~~ (Name of Legislative Body)  
~~Village~~  
on October 3, 1978 in accordance with the applicable provisions of law.

(Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer or repassage after disapproval.)

2. I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County  
of the ~~City~~ of \_\_\_\_\_ was duly passed by \_\_\_\_\_  
~~Town~~ (Name of Legislative Body)  
~~Village~~  
on \_\_\_\_\_ 19\_\_\_\_\_ and was approved \_\_\_\_\_ by the \_\_\_\_\_  
not disapproved \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer  
and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_\_, in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County  
of the ~~City~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_  
~~Town~~ (Name of Legislative Body)  
~~Village~~  
on \_\_\_\_\_ 19\_\_\_\_\_ and was approved \_\_\_\_\_ by the \_\_\_\_\_  
not disapproved \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer  
on \_\_\_\_\_ 19\_\_\_\_\_. Such local law was submitted to the people by reason of a  
mandatory referendum and received the affirmative vote of a majority of the qualified electors voting  
permissive \_\_\_\_\_  
general  
thereon at the special election held on \_\_\_\_\_ 19\_\_\_\_\_, in accordance with the appli-  
annual  
cable provisions of law.

(Subject to permissive referendum and final adoption because no valid petition filed requesting referendum.)

4. I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County  
of the ~~City~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_  
~~Town~~ (Name of Legislative Body)  
~~Village~~  
\_\_\_\_\_ 19\_\_\_\_\_ and was approved \_\_\_\_\_ by the \_\_\_\_\_ on \_\_\_\_\_  
not disapproved \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer  
\_\_\_\_\_ 19\_\_\_\_\_. Such local law being subject to a permissive referendum and no  
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on  
\_\_\_\_\_ 19\_\_\_\_\_, in accordance with the applicable provisions of law.

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or if there be none the chairman of the board of supervisors, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

(City local law concerning Charter revision proposed by petition.)

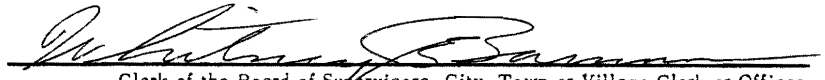
5. I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on ..... 19 ..... became operative.

(County local law concerning adoption of Charter.)

6. I hereby certify that the local law annexed hereto, designated as Local Law No. .... of 197 .... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph .....1..... above.

  
Clerk of the ~~Board of Supervisors, City, Town or Village~~ Clerk or Officer  
~~designated by Local Legislative Body~~  
Niagara County Legislature


Date: October 3, 1978

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF ..... Niagara .....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
.....  
(Title of Officer) Niagara County Attorney  
County  
~~City~~ of ..... Niagara .....  
~~Town~~  
~~Village~~

Dated: October 3, 1978