

**Temple University China Health Law Project****Title:**

*Law of the People's Republic of China on Maternal and Infant Health Care*

**Type of Document:**

*Statute*

**Effective Date:**

*6/1/95*

**Category of Document:**

*Family Planning*

**Source:****Date Downloaded:**

*1/29/06*

**Text:**

Law of the People's Republic of China on Maternal and  
Infant Health Care

(Adopted at the Tenth Meeting the Standing Committee of the Eighth National People's Congress on October 27, 1994, promulgated by Order No - 33 of the President of the People's Republic of China, and effective as of June 1, 1995)

Chapter I  
General Provisions

Article 1 This Law is formulated in accordance with the Constitution with a view to ensuring the health of mothers and infants and improving the quality of the newborn population.

Article 2 The- State shall develop the maternal and infant health care undertakings and provide necessary conditions, and material aids so as to ensure that mothers and infants receive medical and health care services. The State shall support and assist the maternal and infant health care undertakings in outlying and poverty— stricken areas.

Article 3 People's governments at various levels shall exercise leadership in the work of maternal and infant health care. The undertakings of maternal and infant health care shall be included in the plans for national economic and social development-

Article 4 The administrative department of public health under the State Council shall be

in charge of the work of maternal and infant health care throughout the country, put forth the guiding principles for the work in different areas and at different administrative levels in light of their specific conditions, and exercise supervision and management of the nationwide work of maternal and infant health care.

Other relevant departments under the State Council shall, within the scope of their respective functions and duties, cooperate with the administrative department of public health to make a success of the work of maternal and infant health care.

Article 5 The State shall encourage and support education and scientific research in the field of maternal and infant health care, popularize the advanced and practical technique for maternal and infant health care and disseminate the scientific knowledge in this field.

Article 6 Awards shall be granted to organizations and individuals that have made remarkable achievements in the work of maternal and infant health care or achieved significant results in scientific research of maternal and infant health care.

## Chapter II Pre-marital Health Care

Article 7 Medical and health institutions shall provide citizens with pre-marital health — care services.

Pre-marital health-care services shall include the following:

- (1) pre-marital health instruction: education in sex, human reproduction and genetic diseases;
- (2) pre-marital health consultation: medical advice on matters relating to marriage and child—bearing, etc.; and
- (3) pre-marital medical examination: medical examination conducted for both the male and female planning to be married to see whether they suffer from any disease that may have an adverse effect on marriage and child-bearing.

Article 8 Pre-marital medical examination shall include the examination of the following diseases;

- (1) genetic diseases of a serious nature;
- (2) target infectious diseases; and
- (3) relevant mental diseases.

After pre-marital medical examination, the medical and health institution shall issue a certificate of pre-marital medical examination.

Article 9 Physicians shall, after pre-marital medical examination, give medical advice to

these who are in the infective period of any target infectious disease or who are in the morbid period of any relevant mental disease; both the male and female planning to be married shall postpone their marriage for the time being.

Article 10 After pre-marital medical examination, physicians shall, in respect of the male or female who has been diagnosed with certain genetic disease of a serious nature which is considered to be inappropriate for child — hearing from a medical point of view, explain the situations and give medical advice to both the male and the female; those who, with the consent of both the male and the female, after taking long-term contraceptive measures or performance of sterilization operations are unable to have children may get married. However, the circumstances under which marriage may not be contracted under the Marriage Law of the People's Republic of China shall be excepted.

Article 11 Those who have received pre-marital medical examination hold dissenting views on the results of the medical examination may apply for a medical technical appraisal and obtain a certificate of medical appraisal.

Article 12 Both the male and the female shall, in making marriage registration hold their certificates of pre-marital medical examination or certificates of medical technical appraisal.

Article 13 The people's governments of provinces, autonomous regions or municipalities directly under the Central Government, on the basis of the actual conditions of their respective areas, formulate measures for implementing the pre-marital medical examination system.

The people's governments of provinces, autonomous regions or municipalities directly under the Central Government shall fix reasonable rates of charges for pre-marital medical examination. Such charges may be issued or exempted for people who live in outlying and poverty — stricken areas or people who have true difficulties to pay.

### Chapter III Health Care During the Pregnant and Perinatal Period

Article 14 Medical and health institutions shall provide health — care services to women in their child — bearing age or women during the pregnant and perinatal period.

Health - care services during the pregnant and perinatal period shall include the following:

(1) instruction on maternal and infant health care; medical advice on breeding healthy offspring and on the pathogenic factors, treatment and prevention of serious ge-

netic diseases and endemic diseases such as the iodine deficiency syndrome;

(2) health — care for pregnant women and lying— in women: consultation and instruction on hygiene, nutrition and psychology, etc and medical health — care services such as regular prenatal physical check — up;

(3) health care for the fetus, monitoring care, consultancy and medical advice for the growth of the fetus; and

(4) health — can, for newborn babies: medical and health — care services for the growth, feeding and nursing of newborn babies.

Article 15 Medical and health institutions shall give medical advice to the pregnant women who are suffering from serious illness or are exposed to teratogenic substances, if their gestation may jeopardize the safety of their lives, or seriously affect their health or the normal development of the fetus,

Article 16 If a physician detects or suspects that a married couple in their child — bearing age suffer from genetic disease of a serious nature, the physician shall give them medical advice, according to which the said couple shall take corresponding measures.

Article 17 Alter antenatal examination if a physician detects or suspects an abnormality with the fetus, he shall make prenatal diagnosis for the pregnant woman

Article 18 If one of the following cases is detected in the pre natal diagnosis, the physician shall explain the situations to the married couple and give them medical advice on a termination of gestation:

(1) The fetus is suffering from a genetic disease of a serious nature;

(2)The fetus is with a defect of a serious nature; or

(3) Continued gestation may jeopardize the safety of life of the pregnant woman or seriously impair her health, due to the serious disease she suffers from.

Article 19 Termination of gestation or performance of ligation operations practised in accordance with the provisions of this Law shall be subject to the consent and signing of the person per se. If the person per se has no capacity for civil conduct, it shall be subject to the consent and signing of the guardian of the person.

Whoever is to terminate gestation or receive ligation operations under this Law shall receive such services free of charge.

Article 20 In respect of a woman who has given birth to an infant with a serious defect, prior to her second gestation, both the husband and the wife shall receive medical examination in a medical and health institution at or above the county level.

Article 21 Physicians and midwives shall strictly observe relevant: operational procedures improve the skills of midwifery and the quality of services so as to prevent or reduce maternal injuries.

Article 22 Pregnant women who cannot be hospitalized for delivery shall receive sterilized midwifery by trained and qualified midwives.

Article 23 Medical and health institutions and midwives engaged in home delivery shall, as prescribed by the administrative department of public health under the State Council, issue uniformly prepared medical certificates for childbirths, and report to the administrative department of public health, if a lying - in woman or an infant dies or a defective baby is born.

Article 24 Medical and health institutions shall provide lying in women with guidance as to the scientific way of rearing babies, rational nutrition and breastfeeding.

Medical and health institutions shall give physical check — up and preventive inoculation to infants, and gradually develop medical and health — care services such as the screening examination of diseases of newborn babies, the prevention and control of frequently occurring and commonly - seen diseases among infants.

#### Chapter IV Technical Appraisalment

Article 25 The local people' a governments at or above the county level may establish institutions for medical technical appraisalment which shall be responsible for making medical technical appraisalment when dissenting views arises on the results of pre—marital medical examination, genetic diseases diagnosis or prenatal diagnosis.

Article 26 Personnel engaged in medical technical appraisalment must have clinical experience, medical genetic knowledge and the professional title of physician — in — charge or above.

Component members of the medical technical appraisalment institutions shall be nominated by the administrative departments of public health and engaged by the people governments at the corresponding levels.

Article 27 The challenge system shall be instituted in making medical technical appraisalment. Personnel who has an interest in the party concerned, which may affect the impartiality of the appraisalment, shall withdraw.

#### Chapter V Administrative Management

Article 28 People's governments at various levels shall take measures to strengthen the work of maternal and infant health care, to improve medical and healthcare services, to work hard at preventing and controlling the frequently — occurring endemic diseases, caused by environmental factors, that are seriously jeopardizing the health of mothers and infants, thereby promoting the development of undertakings of maternal and infant health

care.

Article 29 Administrative departments of public health under the people's governments at or above the county level shall administer the work of maternal and infant health care within their respective administrative areas.

Article 30 Medical and health institutions designated by the administrative departments of public health under the people's governments of the provinces autonomous regions or municipalities directly under the Central Government shall be responsible for monitoring, and providing technical guidance to, the maternal and infant health care within their respective administrative areas.

Article 31 Medical and health institutions shall, in accordance with the provisions of the administrative department of public health under the State Council, take the responsibility for the work of maternal and infant health care within the scope of their functions and duties, establish rules and regulations for medical and health care services, raise medical and technological level, and take measures for the convenience of the people so as to provide better services in maternal and infant health care.

Article 32 Medical and health institutions that in accordance with the provisions of this Law carry out pre-marital medical examination, genetic disease diagnosis and pre-natal diagnosis, ligation operations and operations for termination of gestation must meet the requirements and technical standards set by the administrative department of public health under the State Council, and shall obtain the permission of the administrative department of public health under the local people's governments at or above the county level.

Sex identification of the fetus by the technical means shall be strictly forbidden, except that it is positively necessitated on medical grounds.

Article 33 Personnel engaged in making genetic disease diagnosis or pre-natal diagnosis as provided by this Law must pass the examination of the administrative department of public health under the people's government of the province, autonomous region or municipality directly under the Central Government, and obtain a corresponding qualification certificate.

Personnel engaged in making, pre-marital medical examination, performing ligation operations or operations for termination of gestation as provided by this Law and persons engaged in home delivery must pass the examination of the administrative department of public health under the people's government at or above the county level, and obtain a corresponding qualification certificate.

Article 34 Personnel engaged in the work of maternal and infant health care shall strictly abide by the professional ethics and keep secrets for the parties concerned.

## Chapter VI

## Legal Liability

Article 35 Where anyone who has not obtained a relevant qualification certificate issued by the State commits any of the following acts, the administrative department of public health under the local people's government at or above the county level shall stop such act and give a warning to or impose a fine upon him in light of the circumstances;

(1) to engage in pre-marital medical examination, genetic disease diagnosis, pre- natal diagnosis or medical technical appraisalment;

(2) to perform operations for termination of gestation; or

(3) to issue relevant medical certificate as stipulated by this Law.

The relevant medical certificate as mentioned in item (3) of the preceding paragraph shall be null and void.

Article 36 Where anyone who has not obtained relevant qualification certificate issued by the State performs operations for termination of gestation or terminates gestation by other means, thus causing death, disability, loss or basic loss of working ability, shall be investigated for criminal responsibility according to the provisions of Article 134 and Article 135 of the Criminal law.

Article 37 Where personnel engaged in the work of maternal and infant health care, in violation of the stipulation of his Law, issue fake medical certificates or undertake sex, identification of the fetus, medical and health institutions or administrative departments of public health shall in light of the circumstance give them administrative sanctions; if the circumstances are serious, they shall be disqualified for practice of their profession according to law.

## Chapter VII Supplementary Provisions

Article 38 The definitions of the following terms as used in this Law are: “

Target infectious diseases” refer to AIDS, gonorrhea, syphilis, and leprosy specified in the Law of the People's Republic of China on the Prevention and Treatment of Infectious Diseases, as well as other infectious diseases that are medically considered to have adverse effects on marriage and reproduction;

Genetic diseases of a serious nature” refer to diseases that are caused by genetic factors congenitally, that may totally or partially deprive the victim of the ability to live independently, that are highly possible to recur in generations to come, and that are medically considered inappropriate for reproduction;

“Relevant mental diseases” refer schizophrenia, manic - depressive – psychosis and other mental diseases of a serious nature; and

“Pre - -natal diagnosis” refers to-diagnosis of the fetus regarding its congenital defect and hereditary diseases.

Article 39 This laws become effective as of June 1, 1995.