An Ordinance amending and supplementing the Allegheny County Code of Ordinances, Division 5, entitled "Health and Sanitation," through the creation of a new Chapter 550, entitled “Right of Choice.”

WHEREAS, it is the judgment of Council that the practice of abortion constitutes health care; and

WHEREAS, it is further the judgment of Council that it is neither appropriate nor well-advised for the Council to attempt to interpose its own beliefs between any individual and their health care provider(s) in making the difficult decisions regarding such procedures;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The preamble to this Ordinance is hereby incorporated in its entirety herein.

SECTION 2. Amendment of the Code.

The Allegheny County Code of Ordinances, Division 5, entitled "Health and Sanitation," is hereby amended and supplemented through the creation of a new Chapter 560, entitled “Right of Choice,” and comprised as follows:

Chapter 560
Right of Choice

§560-1. Policy, findings of fact, and construction.

A. It is the intention of the Council of Allegheny County to protect hereby the life and health of patients choosing to undergo abortion procedures within the first two trimesters of pregnancy. It is the further intention of the Council to foster the development of standards of professional conduct in a critical area of medical practice, and to protect the right of adult and minor patients voluntarily to decide to submit to abortion or to carry their child to term. The Council specifically finds as fact that the rights and interests intended to be furthered by this chapter are not secure after the United States Supreme Court’s decision in *Dobbs v. Jackson Women’s Health*, No. 19-1392, 597 U.S. ___ (2022).

B. Reliable and convincing evidence has compelled the Council to conclude and the Council does hereby

solemnly declare and find that:

1. Many individuals now seek abortions within an environment of institutionalized hostility to the practice.

2. In many cases, safely conducted abortions are necessary to protect the life or health of the mother.

3. In cases of incest or rape, any attempt to force an individual to carry a resulting child to term and through delivery can result in irreparable psychological damage.

4. Nearly all abortions take place in the first trimester when a fetus is attached by the placenta and umbilical cord to the mother, and as a result, its health is dependent on the mother's health, and cannot be regarded as a separate entity as it cannot exist outside her womb.

5. Abortion is a safe medical procedure. The vast majority of individuals who have an abortion do so in their first trimester. Medical abortions have a very low risk of serious complications and do not affect an individual's health or future ability to become pregnant or give birth. "CDCs Abortion Surveillance System FAQs." Centers for Disease Control and Prevention, 25 Nov. 2019 and Bixby Center for Reproductive Health. "Complications of Surgical Abortion : Clinical Obstetrics and Gynecology." LWW.

6. As noted in a 2021 briefing by Dr. Sarah Prager, a professor of obstetrics and gynecology at the University of Washington in Seattle, the death rate for legal abortions is 0.7 deaths for every 100,000 abortions, while there are 2 deaths for every 100,000 plastic surgeries while childbirth has 9 deaths for every 100,000 deliveries.

7. Teenaged individuals who become pregnant and give birth face disproportionately deleterious future impacts; they are much more likely to leave school, receive inadequate prenatal care, or develop mental health problems. "Working With Pregnant & Parenting Teens Tip Sheet." U.S. Department of Health and Human Services.

8. The American Psychological Association has found that there is no evidence of post-abortion syndrome. Major, Brenda, et al. "Abortion and Mental Health: Evaluating the Evidence." American Psychological Association.

9. As determined by the Committee on the Elimination of Discrimination Against Women of the United Nations considers the criminalization of abortion constitutes a violation of the sexual and reproductive health rights of women and a form of gender-based violence. "General Recommendation No. 35 on Gender-Based Violence Against Women."

10. As found in a landmark longitudinal study by the Advancing New Standards in Reproductive Health program of the University of California in San Francisco called the "Turnaway Study" examined the effects of unwanted pregnancy in the lives of women by a multidisciplinary team of researchers over the course of 10 years, and found that women who were denied access to abortion and went on to give birth experienced an increase in household poverty that lasted at least four years relative to those who received an abortion. The study further found that most of

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these women did not have enough money to cover basic living expenses such as food, housing, and transportation. The study also found out that being denied an abortion lowered the credit score of the mother, increased the amount of that woman's debt, and increased the number of her negative public financial records leading to bankruptcies and evictions, and also found that children born as a result of abortion denial were likely to live below the federal poverty level, while existing children of women who sought an abortion but went on to give birth had poor development.

11. The United States already has the highest maternal mortality rate among developed countries, and the rate increased significantly in 2020. According to a 2021 study, maternal mortality would increase under a hypothetical national abortion ban, and existing disparities would be reinforced: the study found that black mothers, who already experience disproportionately high maternal mortality rates, would experience a 33 percent increase in deaths in subsequent years after a ban was enacted. Stevenson, "The Pregnancy-Related Mortality Impact of a Total Abortion Ban in the United States: A Research Note on Increased Deaths Due to Remaining Pregnant," Duke University Press, December 1, 2021.

12. The ripple effects of abortion bans also extend to how medical emergencies may be treated, as such bans could complicate care for the 26 percent of pregnancies that end in miscarriages, already an emotionally and physically traumatic experience for the mother. A physician, faced with uncertainty as to whether they're legally allowed to offer certain forms of care, may be hesitant to treat a person who suffers an incomplete miscarriage, for example, due to concerns that they could be held criminally liable for extracting remaining fetal tissue. Segers, "Abortion Bans Could Have a Dire Impact on All Reproductive Health Treatments," June 28, 2022.

13. Abortion bans will likely also affect how physicians are trained. As noted by Rebecca Reingold, associate director for the O'Neill Institute for National and Global Health Law at Georgetown University: "An important predictor of a physician's ability to provide a full range of miscarriage management options is having had abortion care training as a resident. We're going to see fewer providers receiving the training they need to provide these types of health services. And a shrinking workforce, not only for abortion services but also for the treatment of miscarriages, will have far reaching consequences for maternal health." Id.

C. In every relevant civil or criminal proceeding in which it is possible to do so without violating the Federal or Commonwealth Constitutions, the common and statutory law of Allegheny County shall be construed to further the public policy of this County preserving the right of a pregnant individual to exercise their own judgment in determining whether to proceed with a safe abortion undertaken by qualified medical staff.

§560-2. Antiretaliation and freedom from coercion.

It is the public policy of the County of Allegheny to respect and protect the right of conscience of all persons who obtain, receive, subsidize, accept or provide safe abortions, including those persons who are engaged in the delivery of medical services and medical care whether acting individually, corporately or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability or financial burden upon such persons or entities by reason of their decision to obtain, receive,

subsidize, accept or provide abortions as provided in this Chapter.

§560-3. When abortion lawful during first trimester of pregnancy.

Notwithstanding any of the provisions of §560-9, it shall be lawful for any individual(s) licensed by the Commonwealth of Pennsylvania as a physician to practice medicine and surgery, or as a nurse practitioner and acting within such person's scope of practice to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any pregnant patient during the first trimester of pregnancy.

§560-4. When abortion lawful during second trimester of pregnancy.

Notwithstanding any of the provisions of §560-9 and in addition to the provisions of §560-3, it shall be lawful for any individual licensed by the Commonwealth of Pennsylvania to practice medicine and surgery to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any pregnant patient during the second trimester of pregnancy and prior to the third trimester of pregnancy provided such procedure is performed in a hospital licensed by the Commonwealth's Department of Health.

§ 560-5. When abortion or termination of pregnancy lawful after second trimester of pregnancy.

Notwithstanding any of the provisions of §560-9 and in addition to the provisions of §§560-3 and 560-4, it shall be lawful for any physician licensed by the Commonwealth of Pennsylvania to practice medicine and surgery to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any pregnant patient in a stage of pregnancy subsequent to the second trimester provided the following conditions are met:

A. Said procedure is performed in a hospital licensed by the Commonwealth of Pennsylvania;

B. The licensed physician certifies and so enters in the hospital record of the pregnant patient, that in their medical opinion, based upon their best clinical judgment, the continuation of the pregnancy is likely to substantially and irremediably impair the mental or physical health of the pregnant patient; and

C. Measures for life support for the product of such abortion or miscarriage are both available and utilized if there is any clearly visible evidence of viability.

§560-6. Abortion, etc., when necessary to save life of parent.

Notwithstanding any other provision(s) of this Chapter, in the event that it is necessary for a physician licensed by the Commonwealth of Pennsylvania to terminate a human pregnancy or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any pregnant patient in order to save their

life, in the opinion of the physician so performing the abortion or causing the miscarriage, no prohibition contained within this Chapter shall be applicable and such licensed physician shall not be subject to any penalties hereunder.

§560-7. Medical conscience clause.

Any person who shall state in writing an objection to performing, assisting, or facilitating any or all abortions on personal, ethical, moral or religious grounds shall not be required to participate in procedures which will result in such abortion, and the refusal of such person, hospital or other medical facility to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person, nor shall any such person be denied employment because of such objection or refusal, provided that such refusal does not substantially and irremediably impair the mental or physical health of the patient. The written objection shall remain in effect until such person shall revoke it in writing or terminate his association with the facility with which it is filed.

§560-8. Informed written consent required.

Before performing any abortion or inducing any miscarriage or terminating a pregnancy as provided for under the terms of this Chapter, the licensed individual performing such abortion, induction, or termination shall obtain the informed written consent of the pregnant patient. However, if the pregnant patient has been adjudicated incapacitated by any court of competent jurisdiction or if the licensed individual performing such abortion, induction, or termination knows or has good reason to believe that such patient is incapacitated as adjudicated by a court of competent jurisdiction, then only after permission is given in writing by a parent, guardian, committee, or other person standing in *loco parentis* to the patient, may the licensed individual perform the abortion or otherwise terminate the pregnancy.

§560-9. Producing abortion or miscarriage, etc.; penalty.

Except as provided in other sections of this Chapter, if any person shall, during the third trimester of pregnancy, administer to, or cause to be taken by a pregnant patient, any drug or other thing, or use means, with intent to destroy the unborn child, or to produce abortion or miscarriage, and thereby destroy such child, or produce such abortion or miscarriage, such person shall be guilty of a summary offense, and upon determination of guilt by a court of competent jurisdiction, shall be punishable by a fine not to exceed $500 and/or a term of imprisonment not to exceed 90 days.

§560-10. Effective date.

The provisions of this Ordinance shall become effective upon the earlier of:

A. The effective date of any Federal or Commonwealth statute or regulation granting authority to regulate abortion to Allegheny County, Counties of the Second Class, counties generally, or home rule

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municipalities within the Commonwealth of Pennsylvania; or

B. The date of issuance of any Federal or Commonwealth court decision granting authority to regulate abortion to Allegheny County, Counties of the Second Class, counties generally, or home rule municipalities within the Commonwealth of Pennsylvania.

SECTION 2. Enactment Date and Codification.

This Ordinance shall be deemed enacted upon the date of final approval, and shall be subject to codification thereafter. Once enacted, the provisions of this Ordinance shall become effective as provided for in §560-10.

SECTION 3. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

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