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Measures for Implementation of the Law of the People's Republic of China on Maternal and Infant Care

(Promulgated by Decree No.308 of the State Council of the People's Republic of China on June 20, 2001, and effective as of the date of promulgation)

Chapter I General Provisions

Article 1 These Measures are formulated in accordance with the Law of the People's Republic of China on Maternal and Infant Health Care (hereinafter referred to as the Law on Maternal and Infant Health Care).

Article 2 Institutions engaged in maternal and infant health care services within the territory of the People's Republic of China and their staff shall observe the Law on Maternal and Infant Health Care and these Measures.

The family planning technical services performed by institutions engaged in family planning technical services are governed by the Regulations on Administration of Technical Services for Family Planning.

Article 3 Technical services for maternal and infant health care mainly include the following items:

- (1) popular science dissemination, education and consultation on maternal and infant health care;
- (2) pre-marital medical examination;
- (3) prenatal diagnosis and genetic disease diagnosis;
- (4) skills of midwifery;
- (5) performance of birth control surgery according to medical needs;
- (6) disease screening for newborn babies;
- (7) other reproductive health care services on childbearing, birth control and infertility.

Article 4 Citizens have the right to learn the truth of and to choose maternal and infant health care. The State guarantees its citizens' right to gain access to appropriate maternal and infant health care services.

Article 5 Maternal and infant health care shall focus on health care for the purpose of safeguarding reproductive health, and implement the policy of combining health care with clinic treatments, meeting the needs of various groups and the needs of citizens at the grass-roots level, and giving priority to prevention.

Article 6 People's governments at various levels shall include maternal and infant health care into their plans for economic and social development, provide necessary economic, technical and material conditions for the development of maternal and infant health care, and give special support to the maternal and infant health care in areas inhabited by national minorities and in poverty-stricken areas.

People's governments at or above the county level may, in the light of the particular conditions and needs of their respective localities, set up special fund for development of maternal and infant health care.

Article 7 The administrative department of public health under the State Council takes charge of the work of maternal and infant health care throughout the country, and performs the following duties:

- (1) to formulate supporting rules and technical norms for the Law on Maternal and Infant Health Care and these Measures;
- (2) to formulate national development plan and implementing procedures for the maternal and infant health care on the principal of guiding the work in the light of the particular conditions of different areas and different administrative levels;
- (3) to organize the popularization of appropriate technologies for maternal and infant health care and other reproductive health services;
- (4) to exercise supervision over the work of maternal and infant health care.

Article 8 Departments of finance, public security, civil affairs, education, labor security and family planning of people's governments at or above county level shall, within the scope of their respective duties, coordinate efforts with the administrative departments of public health at the same levels in the work of maternal and infant health care.

Chapter II Pre-marital Health Care

Article 9 The pre-marital health instructions as referred to in article 7 of the Law on Maternal and Infant Health Care include the following items:

- (1) health care and education on sexual hygiene;
- (2) contraception and family planning instructions for newly-married couples;
- (3) pre-conception health care knowledge such as preparation for pregnancy and the influence of environment and diseases on offspring;
- (4) basic knowledge on genetic diseases;
- (5) basic knowledge on diseases affecting marriage and childbearing;
- (6) other knowledge on reproductive health.

Doctors shall, when conducting pre-marital health consultations, provide scientific information to their clients, give instructions on possible consequences and offer appropriate advice.

Article 10 In regions operating a system of pre-marital medical examination, both the male and the female planning to get married shall, before marriage registration, undergo pre-marital medical examination in medical and health care institutions.

Article 11 Medical and health care institutions conducting pre-marital medical examinations are subject to the examination of the administrative departments of public health of the people's governments of the cities divided into districts where such institutions are located; those medical and health care institutions meeting the requirements shall be given a clear indication on the Practicing License of the Medical Institution.

Article 12 Medical and health care institutions applying for conducting pre-marital medical examination shall meet the following conditions:

- (1) having separate examination rooms for male and female, and fitted with equipment for routine and special examinations;
- (2) having a room for pre-marital reproductive health publicity and education;
- (3) being staffed with licensed doctors qualified for pre-marital medical examination for male and female.

Article 13A pre-marital medical examination includes inquiry on medical history, physical examination and other relevant examinations.

Pre-marital medical examination shall conform to the work norms for pre-marital health care, and be conducted in accordance with the items of pre-marital medical examination. The work norms of pre-marital health care and the items of pre-marital medical examination shall be provided by the administrative department of public health under the State Council.

Article 14 After pre-marital medical examination, medical and health care institutions shall issue a pre-marital medical examination certificate to the persons who have undergone such examination.

The pre-marital medical examination certificate shall state whether the following diseases are detected:

- (1) designated infectious diseases in the infectious period;
- (2) relevant mental diseases in the morbid period;
- (3) serious genetic diseases inappropriate for childbearing;
- (4) other diseases that are medically considered inappropriate for marriage.

Doctors shall, upon detection of the diseases referred to in the item (1), (2) or (3) of the preceding paragraph, explain the situation to the parties concerned, give advice on the prevention and treatment of such diseases, and propose corresponding medical measures. The parties concerned may, in accordance with the medical advice of doctors, postpone the marriage or voluntarily take long-acting contraceptive measures or undergo ligature operations; the medical and health care institutions shall provide medical consultations and services for them.

Article 15 Where a medical and health care institution, after pre-marital medical examination, fails to make a definite diagnosis, the case shall be transferred to a medical and health care institution designated by the administrative department of public health under the people's government at or above the level of city divided into districts for a definite diagnosis.

Article 16 In regions operating a system of pre-marital medical examination, the marriage registration organ shall, when handling marriage registration, examine the pre-marital medical examination certificate or the certificate of medical appraisal set forth in Article 11 of the Law on Maternal and Infant Health Care.

Chapter III Health Care During Pregnant and Perinatal Period

Article 17 Medical and health care institutions shall provide consultation and medical health care services on contraception, birth control, childbearing, infertility, and reproductive health to women in their childbearing age.

Where a doctor detects or suspects that a married couple in their childbearing age contract a serious genetic disease, the doctor shall give them medical advice; where a doctor fails to make a definite diagnosis due to limited medical technology, the doctor shall explain the situation to the parties concerned. Married couples in their childbearing age may choose corresponding medical measures for contraception, birth control or infertility.

Article 18 Medical and health care institutions shall provide the following medical health care services for women during the pregnant and perinatal period:

- (1) to make health-care booklet (card) and conduct regular prenatal physical examination for women during the pregnant and perinatal period;
- (2) to provide medical instructions and consultation on hygiene, nutrition and psychology. for women during the pregnant and perinatal period;

- (3) to perform intensive management, follow-up visits and medical health-care services to high-risk pregnant women;
- (4) to provide safe delivery technique services for women during the pregnant and perinatal period;
- (5) to conduct regular post-partum visits and give instructions on the scientific way of baby-feeding;
- (6) to provide consultation, instructions and technique services of contraception;
- (7) to give education on reproductive health and the scientific way of rearing babies to post-partum women and their family members;
- (8) other health care services for women during pregnancy and the perinatal period;

Article 19 Medical and health care institutions shall, upon detecting that a pregnant woman contracts any of the following serious illnesses, or contacts with physically, chemically or biologically toxic or harmful substances which might jeopardize her life or seriously affect her health or the normal development of the fetus, give her medical instruction and conduct necessary medical examination for her:

- (1) serious pregnancy complications;
- (2) serious mental diseases;
- (3) other diseases seriously affecting childbearing as set forth by the administrative department of public health under the State Council.

Article 20 Doctors shall make a prenatal diagnosis where a pregnant woman falls under one of the following circumstances:

- (1) polyhydramnios or anhydramnios;
- (2) abnormal development of fetus or being suspected of fetal malformation;
- (3) contacting with a substance that might cause congenital defects;
- (4) having family history of genetic diseases or history of giving birth to an infant with a serious congenital defect;
- (5) being a primipara in excess of 35 years old.

Article 21 The catalogues of the serious genetic diseases of fetus, the serious defects of fetus and the serious diseases of the pregnant women which might jeopardize the health of the pregnant woman as set forth by Article 18 of the Law on Maternal and Infant Health Care shall be compiled by the administrative department of public health under the State Council.

Article 22 Where a woman has given birth to an infant with a serious genetic disease or a serious defect, both the husband and wife shall, prior to the wife's second pregnancy, undergo medical examination in a medical and health care institution in accordance with the relevant provisions of the State. A medical and health care institution shall communicate knowledge on genetic diseases to the parties concerned and give them consultation and instructions. Where a person is diagnosed with certain genetic disease medically considered inappropriate for childbearing, the doctor shall explain the situation to the parties concerned and give them medical advice.

Article 23 Gender identification of fetus by technical means is strictly prohibited.

Where a fetus is suspected of contracting sex-linked genetic diseases therefore gender identification is needed, such gender identification shall be made by a medical and health care institution designated by the administrative department of public health of the people's government of the province, autonomous region or municipality directly under the Central Government in accordance with the provisions of the administrative department of the health of the State Council.

Article 24 The State advocates delivery in hospital. Medical and health care institutions shall, in accordance with the technical operational procedures formulated by the administrative department of public health under the State Council, provide aseptic midwifery and resuscitation for newborn babies, prevent obstetric complications such as birth injury and post-partum hemorrhage, and reduce the morbidity and mortality rate of women during the pregnant and perinatal period and newborn infants.

Pregnant women who do not have the option of delivery in hospital shall receive midwifery services by midwives who are approved by the administrative departments of public health of the people's governments at the country level and hold technical certificates of home midwifery..

High-risk pregnant women shall be hospitalized for delivery in medical and health institutions.

Chapter IV Infant Health Care

Article 25 Medical and health care institutions shall, in accordance with the relevant provisions of the State, screen, diagnose, treat and monitor the congenital and genetic metabolic diseases of newborn babies.

Article 26 Medical and health care institutions shall, in accordance with the relevant provisions, visit newborn babies, make child health care booklets (card), conduct regular physical examination to newborn babies, give advice on disease prevention, appropriate diet, and stimulation of intelligence development, and provide medical and health care services for prevention and treatment of frequently-encountered diseases of infants.

Article 27 Medical and health care institutions shall, in accordance with specified procedures and items, give preventive inoculation to infants.

The guardian of an infant shall ensure that the infant receives on-time preventive inoculation.

Article 28 The State endorses breastfeeding. Medical and health care institutions shall give technical guidance on breastfeeding and provide necessary conditions for the breastfeeding of post-partum women hospitalized for delivery.

Medical and health care institutions shall not promote or recommend breast milk substitutes to women during the pregnant and perinatal period or to families with infants.

Article 29Advantages of breastfeeding shall be indicated at a prominent position on package labels of breast milk substitutes.

Manufacturers and sellers of breast milk substitutes shall not donate samples of their products to medical and health care institutions, or to conditionally provide equipment, funds or materials for the purpose of promoting the sale of their products.

Article 30Women enjoy maternity leave as set forth by the State. Where a unit has a female employee with an infant under the age of one year old, the unit shall allocate a certain period of time from the working time for her to breastfeed the infant.

Chapter V Technical Appraisal

Article 31Medical technical appraisal committees for maternal and infant health care are classified into three levels: province, city and county.

Members of medical technical appraisal committees for maternal and infant health care shall meet the following conditions:

(1) Members of the medical technical appraisal committee for maternal and infant health care at the county level shall have the professional title of doctor-in-charge or above;

(2) Members of the medical technical appraisal committee for maternal and infant health care at the provincial level or at the level of city divided into districts shall have the professional title of associate chief doctor or above.

Article 32Where the parties concerned disagree with the result of the pre-marital examination, the genetic disease diagnosis or the prenatal diagnosis therefore a further definite diagnosis is needed, the parties concerned may, within 15 days from the date of receiving the result of the examination or the diagnosis, submit a written application for appraisal to the local medical technical appraisal committee for maternal and infant health care at the county level or at the level of city divided into districts.

The medical technical appraisal committee for maternal and infant health care shall issue the medical technical appraisal opinions within 30 days from the date of receiving the application for appraisal and promptly notify the applicant.

The parties concerned who disagree with the appraisal opinions may, within 15 days from the date of receiving the notice of such appraisal opinions, apply for a re-appraisal to the technical appraisal committee for maternal and infant health care at the next higher level.

Article 33Where the medical technical appraisal committee for maternal and infant health care conduct a medical appraisal, not less than five members of the medical technical appraisal committees of related fields shall take part in the appraisal.

Members of the appraisal committee shall sign their names on the appraisal conclusion; different opinions shall be recorded accurately. The appraisal committee shall issue the appraisal opinions to the parties concerned in accordance with the appraisal conclusion.

The administrative measures for medical technical appraisal for maternal and infant health care shall be formulated by the administrative department of public health under the State Council.

Chapter VI Supervision and Administration

Article 34Administrative departments of public health of the people's governments at or above the county level are responsible for the work of supervision and administration of the maternal and infant health care in their respective administrative areas and perform the following supervision and administration duties:

(1) to institute a licensing system to institutions and persons engaged in maternal and infant health care and to issue corresponding licenses in accordance with the Law on Maternal and Infant Health Care, these Measures, and the conditions and standards set forth by the administrative department of public health under the State Council;

(2) to supervise and inspect the implementation of the Law on Maternal and Infant Health Care and these Measures;

(3) to impose, according to law, administrative penalties on acts in violation of the Law on Maternal and Infant Health Care and these Measures;

(4) other matters related with supervision and administration of maternal and infant health care.

Article 35Medical and health care institutions and persons engaged in genetic disease diagnosis and prenatal diagnosis shall be licensed by the administrative department of public health of the people's government of the province, autonomous region or municipality directly under the Central Government.

Medical and health care institutions and persons engaged in pre-marital medical examinations shall be licensed by the administrative department of public health of the people's government of the city divided into districts.

Medical and health care institutions and persons engaged in midwifery services, ligature operations or operations for termination of gestation, and persons engaged in home delivery shall be licensed by the administrative department of public health of the people's government at the county level or above and obtain the corresponding qualification certificates.

Article 36Health supervision personnel shall show their identifications when performing their duties.

Health supervision personnel may inquire medical and health care institutions, ask for necessary materials, supervise or inspect maternal and infant health care; the medical and health care institutions shall not refuse or make concealment.

Health supervision personnel are responsible for maintaining in confidence the technical materials provided by medical and health care institutions.

Article 37 Medical and health care institutions shall, in accordance with the profession they engage in, be staffed with appropriate personnel and equipped with appropriate medical instruments, provide professional training and professional moral education to personnel engaged in maternal and infant health care, and conduct regular inspections and examinations to the persons engaged in maternal and infant health care.

Doctors and midwives (including midwives engaged in home delivery) shall strictly observe the relevant technical operational procedures, make various records carefully, and improve midwifery techniques and service quality.

Administration of midwives shall be implemented in accordance with the provisions of the administrative department of public health under the State Council.

Licensed doctors engaged in maternal and infant health care shall obtain the corresponding qualifications in accordance with the provisions of the Law on Maternal and Infant Health Care.

Article 38 Medical and health care institutions shall provide professional guidance for the health care of kindergartens in accordance with the provisions of the administrative department of public health under the State Council.

Article 39 The State institutes a monitoring and reporting system for maternal mortality, infant mortality and birth defects in newborn babies.

Chapter VII Penalty Provisions

Article 40 Any medical and health care institution or person, in absence of a technique license for maternal and infant health care, conducts pre-marital medical examination, genetic disease diagnosis, prenatal diagnosis, operation for termination of gestation or medical technical appraisal, or issues relevant medical certifications, shall be given a warning, be ordered to stop the illegal act and have the illegal income confiscated by the administrative departments of public health; where the illegal income is not less than 5,000 yuan, a fine of not less than three times nor more than five times the illegal income shall be imposed concurrently; where there is no illegal income, or the illegal income is less than 5,000 yuan, a fine of not less than 5,000 yuan nor more than 20,000 yuan shall be imposed concurrently.

Article 41 Any person engaged in maternal and infant health care technical services who issues fraudulent medical certification documents shall be given administrative sanction according to law; if he falls under one of the following circumstance, his technical qualification certificate for practicing maternal and infant health care or doctor practice certificate shall be revoked by the original departments which issued such certificates:

- (1) causing serious consequence due to delay of diagnosis and treatment;
- (2) causing serious consequence on the body or psychological health of the parties concerned;
- (3) causing other serious consequences.

Article 42 Those who, in violation of these Measures, conduct gender identification of fetus shall be given a warning and ordered to stop the illegal acts by the administrative departments of public health; the person directly in charge and other persons directly responsible for conducting such identifications in the medical and health institutions shall be imposed administrative sanctions. Those who conduct gender identification of fetus for two or more times, or those who conduct such identification for the purpose of making profits, their technical qualification certificate for practicing maternal and infant health care or doctor practice certificates shall be revoked by the original departments which issued the certificates concurrently.

Chapter VIII Supplementary Provisions

Article 43 The format of the pre-marital medical examination certificates shall be specified by the administrative department of public health under the State Council.

Article 44 The Medical and health care institutions, as referred to in the Law on Maternal and Infant Health Care and these Measures, mean the medical organizations of various levels and various kinds that have obtained practice license from the administrative departments of public health in accordance with the Regulations on Administration of Medical Institutions.

Article 45 These Measures shall be effective as of the date of promulgation.