

SENATE No. 193

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act clarifying chapter 111L - biotechnology..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Paragraph (c) of Section 1 of Chapter 111L of the General Laws as
2 appearing in the 2006 Official Edition, is hereby amended by striking in lines 15-16 the words
3 “placental and umbilical cord cells and human adult stem cells”, and inserting at the end of this
4 same paragraph the following sentence:

5 Nothing in this chapter shall prohibit research or clinical applications involving human
6 adult stem cells, umbilical cord cells, amniotic fluid cells or placental cells.

7 SECTION 2. Section 2 of Chapter 111L of the General Laws as appearing in the 2006
8 Official Edition, is hereby amended by striking the definition of "Donated to research" in lines
9 7-14 and inserting in place thereof the following:

10 “Donated to research”, when, in the absence of valuable consideration and after
11 fulfillment of the requirements of informed consent, the persons from whose gametes or cells the
12 pre-implantation embryo has originated or will originate gives the pre-implantation embryo,
13 gametes or cells to another person; provided, however, that the recipient shall not transfer the

14 extant or resultant pre-implantation embryo to a uterus or uterine-like environment or nurture the
15 pre-implantation embryo beyond 14 days of development.

16 SECTION 3. Said Section 2 is hereby further amended by inserting the following
17 new definitions:

18 “ESCRO committee”, means an Embryonic Stem Cell Research Oversight committee
19 that is constituted and operated in a manner consistent with the guidelines of either the National
20 Academies of Sciences or the International Society for Stem Cell Research.’

21 "Reasonable costs", for purposes of reimbursing oocyte donors, may include, but are not
22 limited to, any of the following types of costs if approved by an institutional review board:
23 travel, temporary lodging, childcare, medical care, health insurance (if limited to co-pays and
24 deductibles and the purchase of time-limited accident insurance coverage for complications
25 arising directly from the egg donation process) and actual lost wages, and any other types of such
26 costs as may be approved by such institutional review board.

27 SECTION 4. Said Section 2 is further amended by striking the definition of "Valuable
28 consideration" in lines 90-93 and replacing it with the following:

29 “Valuable consideration”, any consideration beyond reimbursement for reasonable costs
30 incurred in connection with the donation, removal, processing, disposal, preservation, quality
31 control or storage of gametes or embryos for research purposes.

32 SECTION 5. Section 3(a) of Chapter 111L of the General Laws as appearing in the 2006
33 Official Edition, shall be deleted and new language inserted as follows:

34 Research and clinical applications involving the derivation and use of human embryonic
35 stem cells from materials donated to research, including, without limitation, pre-implantation
36 embryos, whether created by the method of fertilization or by somatic cell nuclear transfer,
37 parthenogenesis or other asexual means, gametes, somatic cells and parthenotes shall be
38 permitted.

39 SECTION 6. Section 3 (b) of Chapter 111L of the General Laws as appearing in the 2006
40 Official Edition, shall be amended by inserting in line 9 after the words “duly authorized
41 institutional review board” the following:

42 or ESCRO committee; provided that if such research is approved only by an ESCRO
43 committee, documentation shall be maintained by the ESCRO committee that an institutional
44 review board or another equivalent body determined that any human embryos, cells or gametes
45 to be used in the research were donated to research, as defined in section 2 or in a manner
46 permitted under the laws of the state or foreign country where the donation to research occurred
47 and in a manner otherwise acceptable to the ESCRO.

48 And said section 3 (b) is further, by inserting in lines 9-10 after the words “approval of
49 the institutional review board”, the following: “or ESCRO committee”.

50 And further, by inserting in line 13 after the words “permanent record by the board”, the
51 following: “or ESCRO committee”.

52 And further, by inserting in line 14 after the words “for which the board”, the following:
53 “or ESCRO committee”.

54 SECTION 7. Section 8(c) of Chapter 111L of the General Laws as appearing in
55 the 2006 Official Edition, shall be amended by deleting in lines 12- 13 the words: “or cadaveric
56 tissue”; and by inserting in line 17 after the words “regulate the use” the following: “or study”

57 SECTION 8. Section 9(e) of Chapter 111L of the General Laws as appearing in the
58 2006 Official Edition, shall be amended by deleting all language following the words “not less
59 than twice a year”; and by inserting language as follows:

60 Notwithstanding section 11A 1/2 of chapter 30A of the General Laws, the council may
61 conduct its meetings by telephone conference or similar communications equipment which
62 allows all persons participating in the meeting to hear each other at the same time. Participation
63 by such means shall constitute presence in person at a meeting. Notice of a meeting held in this
64 manner shall be provided in accordance with the requirements of section 11A 1/2 of chapter 30A
65 of the General Laws, and shall state that members of the public will be afforded a location, as
66 specified in the notice, where they may attend the meeting by conference telephone or similar
67 communications equipment.

68 SECTION 9. Section 10(f) of Chapter 111L of the General Laws as appearing in the
69 2006 Official Edition, shall be amended by deleting all language after the words “and (ii)” in line
70 74 and inserting the following language:

71 provides documentation to the department demonstrating that the institution has either an
72 institutional review board or ESCRO committee or both, or provides a copy of a contract
73 between the institution and either a private or public institutional review board or ESCRO
74 committee, as applicable, which shall provide any review required by this chapter. Any
75 institution which submits an application and meets the requirements for a certificate of

76 registration pursuant to this section shall not have the certificate of registration unreasonably
77 withheld. A certificate may be withheld if the department determines that the applicant
78 institution has violated subsection (m).

79 SECTION 10. Section 10(i) of Chapter 111L of the General Laws as appearing in the
80 2006 Official Edition, shall be amended by deleting all language following the words “pursuant
81 to subsection (f)” and inserting the following language:

82 shall submit an annual report to the department providing a summary of the human
83 embryonic stem cell research approved during each calendar year pursuant to section 3(b) of this
84 chapter and a statement representing that such research was reviewed in accordance with this
85 chapter, if applicable.

86 SECTION 11. In Section 10(n), subsection (2) shall be deleted in its entirety, and
87 the following language inserted as follows:

88 (2) The department may, after an opportunity for an adjudicatory proceeding conducted
89 pursuant to chapter 30A, upon determination that an institution conducting research pursuant to
90 this chapter has violated this subsection undertake the following actions:

91 (i) for the violation of clause (iii) of paragraph (n)(1), revoke or refuse to renew such
92 certificate of registration or assess upon the holder a civil administrative penalty not to exceed
93 \$250,000 and may require the holder to submit to additional oversight as a condition or retention,
94 or future consideration of reinstatement of the certificate of registration;

95 (ii) for a violation of clause (i), (ii), (iv), (vi) or (vii) of paragraph (n)(1), assess upon the
96 holder a civil administrative penalty not to exceed \$100,000; or

97 (iii) for a first violation of clause (v) of paragraph (n)(1) censure a holder; and for each
98 subsequent violation of said clause (v) of said paragraph (n)(1), suspend such certificate of
99 registration until compliance with subsection (i), and impose a civil administrative penalty, as
100 determined by the department not to exceed \$1,000.“