

1                   A bill to be entitled  
2           An act relating to women's health care; providing a  
3           popular name; amending s. 390.012, F.S.; revising  
4           requirements for rules of the Agency for Health Care  
5           Administration relating to abortion clinics performing  
6           abortions after the first trimester of pregnancy;  
7           requiring abortion clinics to develop policies to protect  
8           the health, care, and treatment of patients; providing  
9           that rules regulating abortion clinics may not impose an  
10          unconstitutional burden rather than a legally significant  
11          burden on a woman's right to choose to terminate her  
12          pregnancy; providing for severability; providing an  
13          effective date.

14  
15          WHEREAS, abortion is an invasive surgical procedure that  
16          can lead to numerous and serious medical complications,  
17          including, but not limited to, bleeding, hemorrhage, infection,  
18          uterine perforation, blood clots, cervical tears, incomplete  
19          abortion and retained tissue, failure to actually terminate the  
20          pregnancy, free fluid in the abdomen, missed ectopic  
21          pregnancies, cardiac arrest, sepsis, respiratory arrest,  
22          reactions to anesthesia, fertility problems, emotional problems,  
23          and even death, and

24          WHEREAS, the state has a legitimate interest in ensuring  
25          that abortions, like any other medical procedure, be performed  
26          under circumstances that ensure maximum safety for the patient,  
27          and

28          WHEREAS, the risks for abortion are greater after the first

29 | trimester of pregnancy, and

30 |       WHEREAS, the risk of hemorrhage, in particular, is greater  
31 | after the first trimester of pregnancy, and the resultant  
32 | complications may require a hysterectomy, other reparative  
33 | surgery, or a blood transfusion, NOW, THEREFORE,

34 |

35 | Be It Enacted by the Legislature of the State of Florida:

36 |

37 |       Section 1. This act may be cited as the "Women's Health  
38 | and Safety Act."

39 |       Section 2. Section 390.012, Florida Statutes, is amended  
40 | to read:

41 |       390.012 Powers of agency; rules; disposal of fetal  
42 | remains.--

43 |       (1) The agency shall have the authority to develop and  
44 | enforce rules for the health, care, and treatment of persons in  
45 | abortion clinics and for the safe operation of such clinics.  
46 | ~~These rules shall be comparable to rules which apply to all~~  
47 | ~~surgical procedures requiring approximately the same degree of~~  
48 | ~~skill and care as the performance of first trimester abortions.~~

49 |       (a) The rules shall be reasonably related to the  
50 | preservation of maternal health of the clients.

51 |       (b) The rules shall be in accordance with s. 797.03 and  
52 | may not impose an unconstitutional ~~a legally significant~~ burden  
53 | on a woman's freedom to decide whether to terminate her  
54 | pregnancy.

55 |       (c) The rules shall provide for:

56 1.(a) The performance of pregnancy termination procedures  
57 only by a licensed physician.

58 2.(b) The making, protection, and preservation of patient  
59 records, which shall be treated as medical records under chapter  
60 458.

61 (2) For clinics that perform abortions in the first  
62 trimester of pregnancy only, these rules shall be comparable to  
63 rules that apply to all surgical procedures requiring  
64 approximately the same degree of skill and care as the  
65 performance of first trimester abortions.

66 (3) For clinics that perform or claim to perform abortions  
67 after the first trimester of pregnancy, the agency shall adopt  
68 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
69 provisions of this chapter, including the following:

70 (a) Rules for an abortion clinic's physical facilities. At  
71 a minimum, these rules shall prescribe standards for:

72 1. Adequate private space that is specifically designated  
73 for interviewing, counseling, and medical evaluations.

74 2. Dressing rooms for staff and patients.

75 3. Appropriate lavatory areas.

76 4. Areas for preprocedure hand washing.

77 5. Private procedure rooms.

78 6. Adequate lighting and ventilation for abortion  
79 procedures.

80 7. Surgical or gynecological examination tables and other  
81 fixed equipment.

82 8. Postprocedure recovery rooms that are equipped to meet  
83 the patients' needs.

84 9. Emergency exits to accommodate a stretcher or gurney.

85 10. Areas for cleaning and sterilizing instruments.

86 11. Adequate areas for the secure storage of medical  
87 records and necessary equipment and supplies.

88 12. The display in the abortion clinic, in a place that is  
89 conspicuous to all patients, of the clinic's current license  
90 issued by the department.

91 (b) Rules to prescribe abortion clinic supplies and  
92 equipment standards, including supplies and equipment that are  
93 required to be immediately available for use or in an emergency.  
94 At a minimum, these rules shall:

95 1. Prescribe required clean and sterilized equipment and  
96 supplies, including medications, required for the conduct, in an  
97 appropriate fashion, of any abortion procedure that the medical  
98 staff of the clinic anticipates performing and for monitoring  
99 the progress of each patient throughout the procedure and  
100 recovery period.

101 2. Prescribe required equipment, supplies, and medications  
102 that shall be available and ready for immediate use in an  
103 emergency and requirements for written protocols and procedures  
104 to be followed by staff in an emergency, such as the loss of  
105 electrical power.

106 3. Prescribe equipment and supplies for required  
107 laboratory tests and requirements for protocols to calibrate and  
108 maintain laboratory equipment or equipment operated by clinic  
109 staff at the abortion clinic.

110 4. Require ultrasound equipment in those facilities that  
111 provide abortions after 12 weeks' gestation.

112 5. Require that all equipment is safe for the patient and  
 113 the staff, meets applicable federal standards, and is checked  
 114 annually to ensure safety and appropriate calibration.

115 (c) Rules relating to abortion clinic personnel. At a  
 116 minimum, these rules shall require that:

117 1. The abortion clinic designate a medical director who is  
 118 licensed to practice medicine and surgery in the state and who  
 119 has admitting privileges at an accredited hospital in the state  
 120 that is within 50 miles of the abortion clinic.

121 2. If a physician is not present after an abortion is  
 122 performed, a registered nurse, licensed practical nurse,  
 123 advanced registered nurse practitioner, or physician assistant  
 124 shall be present and remain at the clinic to provide  
 125 postoperative monitoring and care until the patient is  
 126 discharged.

127 3. Surgical assistants receive training in counseling,  
 128 patient advocacy, and the specific responsibilities associated  
 129 with the services the surgical assistants provide.

130 4. Volunteers receive training in the specific  
 131 responsibilities associated with the services the volunteers  
 132 provide, including counseling and patient advocacy as provided  
 133 in the rules adopted by the director for different types of  
 134 volunteers based on their responsibilities.

135 (d) Rules relating to the medical screening and evaluation  
 136 of each abortion clinic patient. At a minimum, these rules shall  
 137 require:

138 1. A medical history including reported allergies to  
 139 medications, antiseptic solutions, or latex; past surgeries; and

140 an obstetric and gynecological history.

141 2. A physical examination, including a bimanual  
142 examination estimating uterine size and palpation of the adnexa.

143 3. The appropriate laboratory tests, including:

144 a. For an abortion in which an ultrasound examination is  
145 not performed before the abortion procedure, urine or blood  
146 tests for pregnancy performed before the abortion procedure.

147 b. A test for anemia.

148 c. Rh typing, unless reliable written documentation of  
149 blood type is available.

150 d. Other tests as indicated from the physical examination.

151 4. An ultrasound evaluation for all patients who elect to  
152 have an abortion after 12 weeks' gestation. The rules shall  
153 require that if a person who is not a physician performs an  
154 ultrasound examination, that person shall have documented  
155 evidence that he or she has completed a course in the operation  
156 of ultrasound equipment as prescribed in rule. The physician,  
157 registered nurse, licensed practical nurse, advanced registered  
158 nurse practitioner, or physician assistant shall review, at the  
159 request of the patient, the ultrasound evaluation results,  
160 including an estimate of the probable gestational age of the  
161 fetus, with the patient before the abortion procedure is  
162 performed.

163 5. That the physician is responsible for estimating the  
164 gestational age of the fetus based on the ultrasound examination  
165 and obstetric standards in keeping with established standards of  
166 care regarding the estimation of fetal age as defined in rule  
167 and shall write the estimate in the patient's medical history.

168 The physician shall keep original prints of each ultrasound  
169 examination of a patient in the patient's medical history file.

170 (e) Rules relating to the abortion procedure. At a  
171 minimum, these rules shall require:

172 1. That a physician, registered nurse, licensed practical  
173 nurse, advanced registered nurse practitioner, or physician  
174 assistant is available to all patients throughout the abortion  
175 procedure.

176 2. Standards for the safe conduct of abortion procedures  
177 that conform to obstetric standards in keeping with established  
178 standards of care regarding the estimation of fetal age as  
179 defined in rule.

180 3. Appropriate use of general and local anesthesia,  
181 analgesia, and sedation if ordered by the physician.

182 4. Appropriate precautions, such as the establishment of  
183 intravenous access at least for patients undergoing post-first  
184 trimester abortions.

185 5. Appropriate monitoring of the vital signs and other  
186 defined signs and markers of the patient's status throughout the  
187 abortion procedure and during the recovery period until the  
188 patient's condition is deemed to be stable in the recovery room.

189 (f) Rules that prescribe minimum recovery room standards.  
190 At a minimum, these rules shall require that:

191 1. Postprocedure recovery rooms are supervised and staffed  
192 to meet the patients' needs.

193 2. Immediate postprocedure care consists of observation in  
194 a supervised recovery room for as long as the patient's  
195 condition warrants.

196       3. The clinic arranges hospitalization if any complication  
197 beyond the medical capability of the staff occurs or is  
198 suspected.

199       4. A registered nurse, licensed practical nurse, advanced  
200 registered nurse practitioner, or physician assistant who is  
201 trained in the management of the recovery area and is capable of  
202 providing basic cardiopulmonary resuscitation and related  
203 emergency procedures remains on the premises of the abortion  
204 clinic until all patients are discharged.

205       5. A physician shall sign the discharge order and be  
206 readily accessible and available until the last patient is  
207 discharged to facilitate the transfer of emergency cases if  
208 hospitalization of the patient or viable fetus is necessary.

209       6. A physician discusses Rho(D) immune globulin with each  
210 patient for whom it is indicated and ensures that it is offered  
211 to the patient in the immediate postoperative period or that it  
212 will be available to her within 72 hours after completion of the  
213 abortion procedure. If the patient refuses the Rho(D) immune  
214 globulin, a refusal form approved by the department shall be  
215 signed by the patient and a witness and included in the medical  
216 record.

217       7. Written instructions with regard to postabortion  
218 coitus, signs of possible problems, and general aftercare are  
219 given to each patient. Each patient shall have specific written  
220 instructions regarding access to medical care for complications,  
221 including a telephone number to call for medical emergencies.



222 8. There is a specified minimum length of time that a  
223 patient remains in the recovery room by type of abortion  
224 procedure and duration of gestation.

225 9. The physician ensures that a registered nurse, licensed  
226 practical nurse, advanced registered nurse practitioner, or  
227 physician assistant from the abortion clinic makes a good faith  
228 effort to contact the patient by telephone, with the patient's  
229 consent, within 24 hours after surgery to assess the patient's  
230 recovery.

231 10. Equipment and services are located in the recovery  
232 room to provide appropriate emergency resuscitative and life  
233 support procedures pending the transfer of the patient or viable  
234 fetus to the hospital.

235 (g) Rules that prescribe standards for followup care. At a  
236 minimum, these rules shall require that:

237 1. A postabortion medical visit that includes a medical  
238 examination and a review of the results of all laboratory tests  
239 is offered and, if requested, scheduled for 2 to 3 weeks after  
240 the abortion.

241 2. A urine pregnancy test is obtained at the time of the  
242 followup visit to rule out continuing pregnancy.

243 3. If a continuing pregnancy is suspected, the patient  
244 shall be evaluated and a physician who performs abortions shall  
245 be consulted.

246 (h) Rules to prescribe minimum abortion clinic incident  
247 reporting. At a minimum, these rules shall require that:

248 1. The abortion clinic records each incident that results  
249 in serious injury to a patient or a viable fetus at an abortion

250 clinic and shall report an incident in writing to the department  
 251 within 10 days after the incident occurs. For the purposes of  
 252 this paragraph, "serious injury" means an injury that occurs at  
 253 an abortion clinic and that creates a serious risk of  
 254 substantial impairment of a major bodily organ.

255 2. If a patient's death occurs, other than a fetal death  
 256 properly reported pursuant to law, the abortion clinic reports  
 257 it to the department not later than the next department workday.

258 3. Incident reports are filed with the department and  
 259 appropriate professional regulatory boards.

260 (4) The department shall not release personally  
 261 identifiable patient or physician information.

262 (5) The rules adopted pursuant to this section shall not  
 263 limit the ability of a physician to advise a patient on any  
 264 health issue.

265 (6) The provisions of this section and the rules adopted  
 266 pursuant hereto shall be in addition to any other laws, rules,  
 267 and regulations which are applicable to facilities defined as  
 268 abortion clinics under this section.

269 (7)(2) The agency may adopt and enforce rules, in the  
 270 interest of protecting the public health, to ensure the prompt  
 271 and proper disposal of fetal remains and tissue resulting from  
 272 pregnancy termination.

273 (8)(3) If any owner, operator, or employee of an abortion  
 274 clinic fails to dispose of fetal remains and tissue in a manner  
 275 consistent with the disposal of other human tissue in a  
 276 competent professional manner, the license of such clinic may be  
 277 suspended or revoked, and such person is guilty of a misdemeanor

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278 | of the first degree, punishable as provided in s. 775.082 or s.  
279 | 775.083.

280 |       Section 3. If any provision of this act or the application  
281 | thereof to any person or circumstance is held invalid, the  
282 | invalidity shall not affect other provisions or applications of  
283 | the act which can be given effect without the invalid provision  
284 | or application. To this end, the provisions of this act are  
285 | declared severable.

286 |       Section 4. This act shall take effect July 1, 2005.