

ENROLLED

HB 1041, Engrossed 2

2005 Legislature

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 rules that prescribe standards for physical
8 facilities, supplies and equipment, personnel, screening
9 and evaluation, the abortion procedure, recovery, follow-up
10 care, and incident reporting; providing that rules
11 regulating abortion clinics may not impose an
12 unconstitutional burden rather than a legally significant
13 burden on a woman's right to choose to terminate her
14 pregnancy; providing for severability; providing an
15 effective date.

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

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

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30 WHEREAS, the risks for abortion are greater after the first
 31 trimester of pregnancy, and

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

36
 37 Be It Enacted by the Legislature of the State of Florida:

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

41 Section 2. Section 390.012, Florida Statutes, is amended
 42 to read:

43 390.012 Powers of agency; rules; disposal of fetal
 44 remains.--

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

51 (a) The rules shall be reasonably related to the
 52 preservation of maternal health of the clients.

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

57 (c) The rules shall provide for:

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58 1.~~(a)~~ The performance of pregnancy termination procedures
59 only by a licensed physician.

60 2.~~(b)~~ The making, protection, and preservation of patient
61 records, which shall be treated as medical records under chapter
62 458.

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

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

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

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

76 2. Dressing rooms for staff and patients.

77 3. Appropriate lavatory areas.

78 4. Areas for preprocedure hand washing.

79 5. Private procedure rooms.

80 6. Adequate lighting and ventilation for abortion
81 procedures.

82 7. Surgical or gynecological examination tables and other
83 fixed equipment.

84 8. Postprocedure recovery rooms that are equipped to meet
85 the patients' needs.

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

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- 87 10. Areas for cleaning and sterilizing instruments.
- 88 11. Adequate areas for the secure storage of medical
 89 records and necessary equipment and supplies.
- 90 12. The display in the abortion clinic, in a place that is
 91 conspicuous to all patients, of the clinic's current license
 92 issued by the agency.
- 93 (b) Rules to prescribe abortion clinic supplies and
 94 equipment standards, including supplies and equipment that are
 95 required to be immediately available for use or in an emergency.
 96 At a minimum, these rules shall:
- 97 1. Prescribe required clean and sterilized equipment and
 98 supplies, including medications, required for the conduct, in an
 99 appropriate fashion, of any abortion procedure that the medical
 100 staff of the clinic anticipates performing and for monitoring
 101 the progress of each patient throughout the procedure and
 102 recovery period.
- 103 2. Prescribe required equipment, supplies, and medications
 104 that shall be available and ready for immediate use in an
 105 emergency and requirements for written protocols and procedures
 106 to be followed by staff in an emergency, such as the loss of
 107 electrical power.
- 108 3. Prescribe equipment and supplies for required
 109 laboratory tests and requirements for protocols to calibrate and
 110 maintain laboratory equipment or equipment operated by clinic
 111 staff at the abortion clinic.
- 112 4. Require ultrasound equipment.
- 113 5. Require that all equipment is safe for the patient and
 114 the staff, meets applicable federal standards, and is checked
 115 annually to ensure safety and appropriate calibration.

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

118 1. The abortion clinic designate a medical director who is
119 licensed to practice medicine in this state and who has
120 admitting privileges at a licensed hospital in this state or has
121 a transfer agreement with a licensed hospital within reasonable
122 proximity of the clinic.

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

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

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

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

140 1. A medical history including reported allergies to
141 medications, antiseptic solutions, or latex; past surgeries; and
142 an obstetric and gynecological history.

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

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145 3. The appropriate laboratory tests, including:
 146 a. For an abortion in which an ultrasound examination is
 147 not performed before the abortion procedure, urine or blood
 148 tests for pregnancy performed before the abortion procedure.
 149 b. A test for anemia.
 150 c. Rh typing, unless reliable written documentation of
 151 blood type is available.
 152 d. Other tests as indicated from the physical examination.
 153 4. An ultrasound evaluation for all patients who elect to
 154 have an abortion after the first trimester. The rules shall
 155 require that if a person who is not a physician performs an
 156 ultrasound examination, that person shall have documented
 157 evidence that he or she has completed a course in the operation
 158 of ultrasound equipment as prescribed in rule. The physician,
 159 registered nurse, licensed practical nurse, advanced registered
 160 nurse practitioner, or physician assistant shall review, at the
 161 request of the patient, the ultrasound evaluation results,
 162 including an estimate of the probable gestational age of the
 163 fetus, with the patient before the abortion procedure is
 164 performed.
 165 5. That the physician is responsible for estimating the
 166 gestational age of the fetus based on the ultrasound examination
 167 and obstetric standards in keeping with established standards of
 168 care regarding the estimation of fetal age as defined in rule
 169 and shall write the estimate in the patient's medical history.
 170 The physician shall keep original prints of each ultrasound
 171 examination of a patient in the patient's medical history file.
 172 (e) Rules relating to the abortion procedure. At a
 173 minimum, these rules shall require:

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

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

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

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

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

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

193 1. Postprocedure recovery rooms are supervised and staffed
194 to meet the patients' needs.

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

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

201 4. A registered nurse, licensed practical nurse, advanced
202 registered nurse practitioner, or physician assistant who is

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203 trained in the management of the recovery area and is capable of
204 providing basic cardiopulmonary resuscitation and related
205 emergency procedures remains on the premises of the abortion
206 clinic until all patients are discharged.

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

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

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

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

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

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232 10. Equipment and services are readily accessible to
 233 provide appropriate emergency resuscitative and life support
 234 procedures pending the transfer of the patient or viable fetus
 235 to the hospital.

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

238 1. A postabortion medical visit that includes a medical
 239 examination and a review of the results of all laboratory tests
 240 is offered.

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 agency
 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 (4) The rules adopted pursuant to this section shall not
 259 limit the ability of a physician to advise a patient on any
 260 health issue.

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261 (5) The provisions of this section and the rules adopted
262 pursuant hereto shall be in addition to any other laws, rules,
263 and regulations which are applicable to facilities defined as
264 abortion clinics under this section.

265 ~~(6)-(2)~~ The agency may adopt and enforce rules, in the
266 interest of protecting the public health, to ensure the prompt
267 and proper disposal of fetal remains and tissue resulting from
268 pregnancy termination.

269 ~~(7)-(3)~~ If any owner, operator, or employee of an abortion
270 clinic fails to dispose of fetal remains and tissue in a manner
271 consistent with the disposal of other human tissue in a
272 competent professional manner, the license of such clinic may be
273 suspended or revoked, and such person is guilty of a misdemeanor
274 of the first degree, punishable as provided in s. 775.082 or s.
275 775.083.

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

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