

Bill No. SB 1862

Barcode 612106

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Judiciary (Clary) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

(a) The rules shall be reasonably related to the

Bill No. SB 1862

Barcode 612106

1 preservation of maternal health of the clients.

2 **(b)** The rules shall be in accordance with s. 797.03
3 and may not impose an unconstitutional ~~a legally significant~~
4 burden on a woman's freedom to decide whether to terminate her
5 pregnancy.

6 **(c)** The rules shall provide for:

7 **1.**~~(a)~~ The performance of pregnancy termination
8 procedures only by a licensed physician.

9 **2.**~~(b)~~ The making, protection, and preservation of
10 patient records, which shall be treated as medical records
11 under chapter 458.

12 **(2)** For clinics that perform abortions in the first
13 trimester of pregnancy only, these rules shall be comparable
14 to rules that apply to all surgical procedures requiring
15 approximately the same degree of skill and care as the
16 performance of first trimester abortions.

17 **(3)** For clinics that perform or claim to perform
18 abortions after the first trimester of pregnancy, the agency
19 shall adopt rules pursuant to ss. 120.536(1) and 120.54 to
20 implement the provisions of this chapter, including the
21 following:

22 **(a)** Rules for an abortion clinic's physical
23 facilities. At a minimum, these rules shall prescribe
24 standards for:

25 **1.** Adequate private space that is specifically
26 designated for interviewing, counseling, and medical
27 evaluations.

28 **2.** Dressing rooms for staff and patients.

29 **3.** Appropriate lavatory areas.

30 **4.** Areas for preprocedure hand washing.

31 **5.** Private procedure rooms.

Bill No. SB 1862

Barcode 612106

1 6. Adequate lighting and ventilation for abortion
2 procedures.

3 7. Surgical or gynecological examination tables and
4 other fixed equipment.

5 8. Postprocedure recovery rooms that are equipped to
6 meet the patients' needs.

7 9. Emergency exits to accommodate a stretcher or
8 gurney.

9 10. Areas for cleaning and sterilizing instruments.

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

12 12. The display in the abortion clinic, in a place
13 that is conspicuous to all patients, of the clinic's current
14 license issued by the agency.

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

19 1. Prescribe required clean and sterilized equipment
20 and supplies, including medications, required for the conduct,
21 in an appropriate fashion, of any abortion procedure that the
22 medical staff of the clinic anticipates performing and for
23 monitoring the progress of each patient throughout the
24 procedure and recovery period.

25 2. Prescribe required equipment, supplies, and
26 medications that shall be available and ready for immediate
27 use in an emergency and requirements for written protocols and
28 procedures to be followed by staff in an emergency, such as
29 the loss of electrical power.

30 3. Prescribe equipment and supplies for required
31 laboratory tests and requirements for protocols to calibrate

Bill No. SB 1862

Barcode 612106

1 and maintain laboratory equipment or equipment operated by
2 clinic staff at the abortion clinic.

3 4. Require ultrasound equipment.

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

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

9 1. The abortion clinic designate a medical director
10 who is licensed to practice medicine and surgery in the state
11 and who has admitting privileges at an accredited hospital in
12 the state which is within 50 miles of the abortion clinic.

13 2. If a physician is not present after an abortion is
14 performed, a registered nurse, licensed practical nurse,
15 advanced registered nurse practitioner, or physician assistant
16 shall be present and remain at the clinic to provide
17 postoperative monitoring and care until the patient is
18 discharged.

19 3. Surgical assistants receive training in counseling,
20 patient advocacy, and the specific responsibilities associated
21 with the services the surgical assistants provide.

22 4. Volunteers receive training in the specific
23 responsibilities associated with the services the volunteers
24 provide, including counseling and patient advocacy as provided
25 in the rules adopted by the director for different types of
26 volunteers based on their responsibilities.

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

30 1. A medical history, including reported allergies to
31 medications, antiseptic solutions, or latex; past surgeries;

Bill No. SB 1862

Barcode 612106

1 and an obstetric and gynecological history.

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

5 3. The appropriate laboratory tests, including:

6 a. For an abortion in which an ultrasound examination
7 is not performed before the abortion procedure, urine or blood
8 tests for pregnancy performed before the abortion procedure.

9 b. A test for anemia.

10 c. Rh typing, unless reliable written documentation of
11 blood type is available.

12 d. Other tests as indicated from the physical
13 examination.

14 4. An ultrasound evaluation for all patients who elect
15 to have an abortion after the first trimester. The rules shall
16 require that if a person who is not a physician performs an
17 ultrasound examination, that person shall have documented
18 evidence that he or she has completed a course in the
19 operation of ultrasound equipment as prescribed in rule. The
20 physician, registered nurse, licensed practical nurse,
21 advanced registered nurse practitioner, or physician assistant
22 shall review, at the request of the patient, the ultrasound
23 evaluation results, including an estimate of the probable
24 gestational age of the fetus, with the patient before the
25 abortion procedure is performed.

26 5. That the physician is responsible for estimating
27 the gestational age of the fetus based on the ultrasound
28 examination and obstetric standards in keeping with
29 established standards of care regarding the estimation of
30 fetal age as defined in rule and shall write the estimate in
31 the patient's medical history. The physician shall keep

Bill No. SB 1862

Barcode 612106

1 original prints of each ultrasound examination of a patient in
2 the patient's medical history file.

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

5 1. That a physician, registered nurse, licensed
6 practical nurse, advanced registered nurse practitioner, or
7 physician assistant is available to all patients throughout
8 the abortion procedure.

9 2. Standards for the safe conduct of abortion
10 procedures that conform to obstetric standards in keeping with
11 established standards of care regarding the estimation of
12 fetal age as defined in rule.

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

15 4. Appropriate precautions, such as the establishment
16 of intravenous access, at least for patients undergoing
17 post-first trimester abortions.

18 5. Appropriate monitoring of the vital signs and other
19 defined signs and markers of the patient's status throughout
20 the abortion procedure and during the recovery period until
21 the patient's condition is deemed to be stable in the recovery
22 room.

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

25 1. Postprocedure recovery rooms are supervised and
26 staffed to meet the patients' needs.

27 2. Immediate postprocedure care consists of
28 observation in a supervised recovery room for as long as the
29 patient's condition warrants.

30 3. The clinic arranges hospitalization if any
31 complication beyond the medical capability of the staff occurs

Bill No. SB 1862

Barcode 612106

1 or is suspected.

2 4. A registered nurse, licensed practical nurse,
3 advanced registered nurse practitioner, or physician assistant
4 who is trained in the management of the recovery area and is
5 capable of providing basic cardiopulmonary resuscitation and
6 related emergency procedures remains on the premises of the
7 abortion clinic until all patients are discharged.

8 5. A physician shall sign the discharge order and be
9 readily accessible and available until the last patient is
10 discharged to facilitate the transfer of emergency cases if
11 hospitalization of the patient or viable fetus is necessary.

12 6. A physician discusses Rho(D) immune globulin with
13 each patient for whom it is indicated and ensures that it is
14 offered to the patient in the immediate postoperative period
15 or that it will be available to her within 72 hours after
16 completion of the abortion procedure. If the patient refuses
17 the Rho(D) immune globulin, a refusal form approved by the
18 agency shall be signed by the patient and a witness and
19 included in the medical record.

20 7. Written instructions with regard to postabortion
21 coitus, signs of possible problems, and general aftercare are
22 given to each patient. Each patient shall have specific
23 written instructions regarding access to medical care for
24 complications, including a telephone number to call for
25 medical emergencies.

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

29 9. The physician ensures that a registered nurse,
30 licensed practical nurse, advanced registered nurse
31 practitioner, or physician assistant from the abortion clinic

Bill No. SB 1862

Barcode 612106

1 makes a good-faith effort to contact the patient by telephone,
2 with the patient's consent, within 24 hours after surgery to
3 assess the patient's recovery.

4 10. Equipment and services are readily accessible to
5 provide appropriate emergency resuscitative and life support
6 procedures pending the transfer of the patient or viable fetus
7 to the hospital.

8 (g) Rules that prescribe standards for followup care.

9 At a minimum, these rules shall require that:

10 1. A postabortion medical visit that includes a
11 medical examination and a review of the results of all
12 laboratory tests is offered.

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

15 3. If a continuing pregnancy is suspected, the patient
16 shall be evaluated and a physician who performs abortions
17 shall be consulted.

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

21 1. The abortion clinic records each incident that
22 results in serious injury to a patient or a viable fetus at an
23 abortion clinic and shall report an incident in writing to the
24 agency within 10 days after the incident occurs. For the
25 purposes of this paragraph, the term "serious injury" means an
26 injury that occurs at an abortion clinic and that creates a
27 serious risk of substantial impairment of a major bodily
28 organ.

29 2. If a patient's death occurs, other than a fetal
30 death properly reported pursuant to law, the abortion clinic
31 reports it to the department not later than the next

Bill No. SB 1862

Barcode 612106

1 department workday.

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

5 (5) The provisions of this section and the rules
6 adopted pursuant to this section shall be in addition to any
7 other laws, rules, and regulations that are applicable to
8 facilities defined as abortion clinics under this section.

9 (6)(2) The agency may adopt and enforce rules, in the
10 interest of protecting the public health, to ensure the prompt
11 and proper disposal of fetal remains and tissue resulting from
12 pregnancy termination.

13 (7)(3) If any owner, operator, or employee of an
14 abortion clinic fails to dispose of fetal remains and tissue
15 in a manner consistent with the disposal of other human tissue
16 in a competent professional manner, the license of such clinic
17 may be suspended or revoked, and such person is guilty of a
18 misdemeanor of the first degree, punishable as provided in s.
19 775.082 or s. 775.083.

20 Section 3. If any provision of this act or the
21 application thereof to any person or circumstance is held
22 invalid, the invalidity shall not affect other provisions or
23 applications of the act which can be given effect without the
24 invalid provision or application. To this end, the provisions
25 of this act are declared severable.

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

27
28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete everything before the enacting clause

Bill No. SB 1862

Barcode 612106

1 and insert:

2 A bill to be entitled

3 An act relating to women's health care;

4 providing a short title; amending s. 390.012,

5 F.S.; revising requirements for rules of the

6 Agency for Health Care Administration relating

7 to abortion clinics performing abortions after

8 the first trimester of pregnancy; requiring

9 rules that prescribe standards for physical

10 facilities, supplies and equipment, personnel,

11 screening and evaluation, the abortion

12 procedure, recovery, followup care, and

13 incident reporting; providing that rules

14 regulating abortion clinics may not impose an

15 unconstitutional burden rather than a legally

16 significant burden on a woman's right to choose

17 to terminate her pregnancy; providing for

18 severability; providing an effective date.

19

20 WHEREAS, abortion is an invasive surgical procedure

21 that can lead to numerous and serious medical complications,

22 including, but not limited to, bleeding, hemorrhage,

23 infection, uterine perforation, blood clots, cervical tears,

24 incomplete abortion and retained tissue, failure to actually

25 terminate the pregnancy, free fluid in the abdomen, missed

26 ectopic pregnancies, cardiac arrest, sepsis, respiratory

27 arrest, reactions to anesthesia, fertility problems, emotional

28 problems, and even death, and

29 WHEREAS, the state has a legitimate interest in

30 ensuring that abortions, like any other medical procedure, be

31 performed under circumstances that ensure maximum safety for

Bill No. SB 1862

Barcode 612106

1 the patient, and

2 WHEREAS, the risks for abortion are greater after the
3 first trimester of pregnancy, and

4 WHEREAS, the risk of hemorrhage, in particular, is
5 greater after the first trimester of pregnancy, and the
6 resultant complications may require a hysterectomy, other
7 reparative surgery, or a blood transfusion, NOW, THEREFORE,

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31