

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

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6 Be It Enacted by the Legislature of the State of Florida:

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

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

12 390.012 Powers of agency; rules; disposal of fetal
13 remains.--

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

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

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

27 (c) The rules shall provide for:

28 1.(a) The performance of pregnancy termination
29 procedures only by a licensed physician.

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

4 (2) For clinics that perform abortions in the first
5 trimester of pregnancy only, these rules shall be comparable
6 to rules that apply to all surgical procedures requiring
7 approximately the same degree of skill and care as the
8 performance of first trimester abortions.

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

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

17 1. Adequate private space that is specifically
18 designated for interviewing, counseling, and medical
19 evaluations.

20 2. Dressing rooms for staff and patients.

21 3. Appropriate lavatory areas.

22 4. Areas for preprocedure hand washing.

23 5. Private procedure rooms.

24 6. Adequate lighting and ventilation for abortion
25 procedures.

26 7. Surgical or gynecological examination tables and
27 other fixed equipment.

28 8. Postprocedure recovery rooms that are equipped to
29 meet the patients' needs.

30 9. Emergency exits to accommodate a stretcher or
31 gurney.

1 10. Areas for cleaning and sterilizing instruments.

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

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

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

11 1. Prescribe required clean and sterilized equipment
12 and supplies, including medications, required for the conduct,
13 in an appropriate fashion, of any abortion procedure that the
14 medical staff of the clinic anticipates performing and for
15 monitoring the progress of each patient throughout the
16 procedure and recovery period.

17 2. Prescribe required equipment, supplies, and
18 medications that shall be available and ready for immediate
19 use in an emergency and requirements for written protocols and
20 procedures to be followed by staff in an emergency, such as
21 the loss of electrical power.

22 3. Prescribe equipment and supplies for required
23 laboratory tests and requirements for protocols to calibrate
24 and maintain laboratory equipment or equipment operated by
25 clinic staff at the abortion clinic.

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

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

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

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

7 2. If a physician is not present after an abortion is
8 performed, a registered nurse, licensed practical nurse,
9 advanced registered nurse practitioner, or physician assistant
10 shall be present and remain at the clinic to provide
11 postoperative monitoring and care until the patient is
12 discharged.

13 3. Surgical assistants receive training in counseling,
14 patient advocacy, and the specific responsibilities associated
15 with the services the surgical assistants provide.

16 4. Volunteers receive training in the specific
17 responsibilities associated with the services the volunteers
18 provide, including counseling and patient advocacy as provided
19 in the rules adopted by the director for different types of
20 volunteers based on their responsibilities.

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

24 1. A medical history including reported allergies to
25 medications, antiseptic solutions, or latex; past surgeries;
26 and an obstetric and gynecological history.

27 2. A physical examination, including a bimanual
28 examination estimating uterine size and palpation of the
29 adnexa.

30 3. The appropriate laboratory tests, including:
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1 a. For an abortion in which an ultrasound examination
2 is not performed before the abortion procedure, urine or blood
3 tests for pregnancy performed before the abortion procedure.

4 b. A test for anemia.

5 c. Rh typing, unless reliable written documentation of
6 blood type is available.

7 d. Other tests as indicated from the physical
8 examination.

9 4. An ultrasound evaluation for all patients who elect
10 to have an abortion after 12 weeks' gestation. The rules shall
11 require that if a person who is not a physician performs an
12 ultrasound examination, that person shall have documented
13 evidence that he or she has completed a course in the
14 operation of ultrasound equipment as prescribed in rule. The
15 physician, registered nurse, licensed practical nurse,
16 advanced registered nurse practitioner, or physician assistant
17 shall review, at the request of the patient, the ultrasound
18 evaluation results, including an estimate of the probable
19 gestational age of the fetus, with the patient before the
20 abortion procedure is performed.

21 5. That the physician is responsible for estimating
22 the gestational age of the fetus based on the ultrasound
23 examination and obstetric standards in keeping with
24 established standards of care regarding the estimation of
25 fetal age as defined in rule and shall write the estimate in
26 the patient's medical history. The physician shall keep
27 original prints of each ultrasound examination of a patient in
28 the patient's medical history file.

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

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1 1. That a physician, registered nurse, licensed
2 practical nurse, advanced registered nurse practitioner, or
3 physician assistant is available to all patients throughout
4 the abortion procedure.

5 2. Standards for the safe conduct of abortion
6 procedures that conform to obstetric standards in keeping with
7 established standards of care regarding the estimation of
8 fetal age as defined in rule.

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

11 4. Appropriate precautions, such as the establishment
12 of intravenous access at least for patients undergoing
13 post-first trimester abortions.

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

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

21 1. Postprocedure recovery rooms are supervised and
22 staffed to meet the patients' needs.

23 2. Immediate postprocedure care consists of
24 observation in a supervised recovery room for as long as the
25 patient's condition warrants.

26 3. The clinic arranges hospitalization if any
27 complication beyond the medical capability of the staff occurs
28 or is suspected.

29 4. A registered nurse, licensed practical nurse,
30 advanced registered nurse practitioner, or physician assistant
31 who is trained in the management of the recovery area and is

1 capable of providing basic cardiopulmonary resuscitation and
2 related emergency procedures remains on the premises of the
3 abortion clinic until all patients are discharged.

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

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

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

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

25 9. The physician ensures that a registered nurse,
26 licensed practical nurse, advanced registered nurse
27 practitioner, or physician assistant from the abortion clinic
28 makes a good faith effort to contact the patient by telephone,
29 with the patient's consent, within 24 hours after surgery to
30 assess the patient's recovery.

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1 10. Equipment and services are located in the recovery
2 room to provide appropriate emergency resuscitative and life
3 support procedures pending the transfer of the patient or
4 viable fetus to the hospital.

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

6 At a minimum, these rules shall require that:

7 1. A postabortion medical visit that includes a
8 medical examination and a review of the results of all
9 laboratory tests is offered and, if requested, scheduled for 2
10 to 3 weeks after the abortion.

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

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

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

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

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

30 3. Incident reports are filed with the department and
31 appropriate professional regulatory boards.

1 (4) The department shall not release personally
2 identifiable patient or physician information.

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

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

10 ~~(7)(2)~~ The agency may adopt and enforce rules, in the
11 interest of protecting the public health, to ensure the prompt
12 and proper disposal of fetal remains and tissue resulting from
13 pregnancy termination.

14 ~~(8)(3)~~ If any owner, operator, or employee of an
15 abortion clinic fails to dispose of fetal remains and tissue
16 in a manner consistent with the disposal of other human tissue
17 in a competent professional manner, the license of such clinic
18 may be suspended or revoked, and such person is guilty of a
19 misdemeanor of the first degree, punishable as provided in s.
20 775.082 or s. 775.083.

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

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