

By the Committee on Judiciary; and Senators Dockery, Fasano, Villalobos, Baker, Sebesta, Atwater, Alexander, Wise, Constantine, Webster, Haridopolos, Pruitt, Diaz de la Portilla, Posey, Peaden, Clary, Campbell and Bullard

590-2251-05

1 A bill to be entitled
 2 An act relating to women's health care;
 3 providing a short title; amending s. 390.012,
 4 F.S.; revising requirements for rules of the
 5 Agency for Health Care Administration relating
 6 to abortion clinics performing abortions after
 7 the first trimester of pregnancy; requiring
 8 rules that prescribe standards for physical
 9 facilities, supplies and equipment, personnel,
 10 screening and evaluation, the abortion
 11 procedure, recovery, followup care, and
 12 incident reporting; providing that rules
 13 regulating abortion clinics may not impose an
 14 unconstitutional burden rather than a legally
 15 significant burden on a woman's right to choose
 16 to terminate her pregnancy; providing for
 17 severability; providing an effective date.
 18
 19 WHEREAS, abortion is an invasive surgical procedure
 20 that can lead to numerous and serious medical complications,
 21 including, but not limited to, bleeding, hemorrhage,
 22 infection, uterine perforation, blood clots, cervical tears,
 23 incomplete abortion and retained tissue, failure to actually
 24 terminate the pregnancy, free fluid in the abdomen, missed
 25 ectopic pregnancies, cardiac arrest, sepsis, respiratory
 26 arrest, reactions to anesthesia, fertility problems, emotional
 27 problems, and even death, and
 28 WHEREAS, the state has a legitimate interest in
 29 ensuring that abortions, like any other medical procedure, be
 30 performed under circumstances that ensure maximum safety for
 31 the patient, and

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

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

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

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

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

14 390.012 Powers of agency; rules; disposal of fetal
15 remains.--

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

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

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

29 (c) The rules shall provide for:

30 1.(a) The performance of pregnancy termination
31 procedures only by a licensed physician.

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 agency.

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.

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

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

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

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

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

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

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

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

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

28 3. The appropriate laboratory tests, including:

29 a. For an abortion in which an ultrasound examination
30 is not performed before the abortion procedure, urine or blood
31 tests for pregnancy performed before the abortion procedure.

1 b. A test for anemia.

2 c. Rh typing, unless reliable written documentation of
3 blood type is available.

4 d. Other tests as indicated from the physical
5 examination.

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

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

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

28 1. That a physician, registered nurse, licensed
29 practical nurse, advanced registered nurse practitioner, or
30 physician assistant is available to all patients throughout
31 the abortion procedure.

- 1 2. Standards for the safe conduct of abortion
2 procedures that conform to obstetric standards in keeping with
3 established standards of care regarding the estimation of
4 fetal age as defined in rule.
- 5 3. Appropriate use of general and local anesthesia,
6 analgesia, and sedation if ordered by the physician.
- 7 4. Appropriate precautions, such as the establishment
8 of intravenous access, at least for patients undergoing
9 post-first trimester abortions.
- 10 5. Appropriate monitoring of the vital signs and other
11 defined signs and markers of the patient's status throughout
12 the abortion procedure and during the recovery period until
13 the patient's condition is deemed to be stable in the recovery
14 room.
- 15 (f) Rules that prescribe minimum recovery room
16 standards. At a minimum, these rules shall require that:
- 17 1. Postprocedure recovery rooms are supervised and
18 staffed to meet the patients' needs.
- 19 2. Immediate postprocedure care consists of
20 observation in a supervised recovery room for as long as the
21 patient's condition warrants.
- 22 3. The clinic arranges hospitalization if any
23 complication beyond the medical capability of the staff occurs
24 or is suspected.
- 25 4. A registered nurse, licensed practical nurse,
26 advanced registered nurse practitioner, or physician assistant
27 who is trained in the management of the recovery area and is
28 capable of providing basic cardiopulmonary resuscitation and
29 related emergency procedures remains on the premises of the
30 abortion clinic until all patients are discharged.
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1 5. A physician shall sign the discharge order and be
2 readily accessible and available until the last patient is
3 discharged to facilitate the transfer of emergency cases if
4 hospitalization of the patient or viable fetus is necessary.

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

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

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

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

28 10. Equipment and services are readily accessible to
29 provide appropriate emergency resuscitative and life support
30 procedures pending the transfer of the patient or viable fetus
31 to the hospital.

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

2 At a minimum, these rules shall require that:

3 1. A postabortion medical visit that includes a
4 medical examination and a review of the results of all
5 laboratory tests is offered.

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

8 3. If a continuing pregnancy is suspected, the patient
9 shall be evaluated and a physician who performs abortions
10 shall be consulted.

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

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

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

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

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

3 ~~(6)(2)~~ The agency may adopt and enforce rules, in the
4 interest of protecting the public health, to ensure the prompt
5 and proper disposal of fetal remains and tissue resulting from
6 pregnancy termination.

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

14 Section 3. If any provision of this act or the
15 application thereof to any person or circumstance is held
16 invalid, the invalidity shall not affect other provisions or
17 applications of the act which can be given effect without the
18 invalid provision or application. To this end, the provisions
19 of this act are declared severable.

20 Section 4. This act shall take effect July 1, 2005.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1862

4 This committee substitute:

- 5 -- Requires ultrasound equipment for all facilities, not
6 just those providing abortions after 12 weeks gestation;
- 7 -- Requires rules to be adopted to include an ultrasound for
8 all abortions after the first trimester, rather than
9 after 12 weeks gestation;
- 10 -- Changes references from "Department" to "Agency"
11 regarding the entity required to approve a refusal form
12 relating to Rho(D) immune globulin and the entity
13 receiving reports of serious injuries;
- 14 -- Changes the requirement that equipment and services be
15 physically located in the recovery room to requiring that
16 they be "readily accessible"; and
- 17 -- Removes the confidentiality provision relating to
18 personally identifiable patient and physician information
19 provided to the Department of Health.
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