

HB 1397

2011

1 A bill to be entitled
2 An act relating to abortions; amending s. 390.0111, F.S.;
3 restricting the circumstances in which an abortion may be
4 performed in the third trimester or after viability;
5 requiring an abortion clinic to provide conspicuous notice
6 on any form or medium of advertisement that the abortion
7 clinic is prohibited from performing abortions in the
8 third trimester or after viability; requiring a physician
9 that offers to perform or performs terminations of
10 pregnancy to complete continuing education related to
11 ethics; prohibiting a termination of pregnancy from being
12 performed in a location other than a validly licensed
13 hospital, abortion clinic, or physician's office;
14 prohibiting a person from establishing, conducting,
15 managing, or operating an abortion clinic without a valid,
16 current license; prohibiting a person from performing or
17 assisting in performing an abortion on a person in the
18 third trimester or after viability, other than in a
19 hospital; requiring an abortion clinic to be owned and
20 operated by a physician who has received training during
21 residency in performing a dilation-and-curettage procedure
22 or a dilation-and-evacuation procedure; providing a
23 penalty; providing that failure to dispose of fetal
24 remains in accordance with rules of the Department of
25 Health is a misdemeanor of the first degree rather than a
26 misdemeanor of the second degree; clarifying provisions
27 providing that it is a first-degree misdemeanor to
28 unlawfully advertise how to obtain a miscarriage of a

29 | woman pregnant with a child; requiring the Department of
30 | Health to permanently revoke the license of any health
31 | care practitioner who is convicted or found guilty of, or
32 | enters a plea of guilty or nolo contendere to, regardless
33 | of adjudication, certain felony criminal acts; requiring
34 | the Agency for Health Care Administration to submit to the
35 | Governor and Legislature an annual report of aggregate
36 | statistical data relating to abortions and provide such
37 | data on its website; amending s. 390.0112, F.S.; requiring
38 | the director of a medical facility or physician's office
39 | to submit a report to the agency following each
40 | termination of pregnancy on a form developed by the agency
41 | consistent with the U.S. Standard Report of Induced
42 | Termination of Pregnancy from the Centers for Disease
43 | Control and Prevention; requiring the agency to submit
44 | reported data to the Division of Reproductive Health
45 | within the Centers for Disease Control and Prevention;
46 | amending s. 390.012, F.S.; requiring the agency to adopt
47 | rules that prescribe standards for placing conspicuous
48 | notice on any form or medium of advertisement of an
49 | abortion clinic which states that the abortion clinic is
50 | prohibited from performing abortions in the third
51 | trimester or after viability; amending s. 456.013, F.S.;
52 | requiring that each applicable board require a physician
53 | who offers to perform or performs terminations of
54 | pregnancy to annually complete a course relating to ethics
55 | as part of the licensure and renewal process; providing
56 | that the course counts toward the total number of

57 continuing education hours required for the profession;
 58 requiring the applicable board to approve the course;
 59 repealing s. 797.02, F.S., relating to the advertising of
 60 drugs for abortions; repealing s. 797.03, F.S., relating
 61 to prohibited acts related to abortions and their
 62 penalties; providing for severability; providing an
 63 effective date.

64

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

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67 Section 1. Subsections (1), (2), (7), and (10) of section
 68 390.0111, Florida Statutes, are amended, and subsection (12) is
 69 added to that section, to read:

70 390.0111 Termination of pregnancies.—

71 (1) TERMINATION IN THIRD TRIMESTER; WHEN ALLOWED.—

72 (a) A ~~No~~ termination of pregnancy may not ~~shall~~ be
 73 performed after the period at which, in the best medical
 74 judgment of the physician, the fetus has attained viability, as
 75 defined in subsection (4), or on any person ~~human being~~ in the
 76 third trimester of pregnancy unless the termination of pregnancy
 77 is performed in a hospital, and:

78 1.(a) Two physicians certify in writing to the existence
 79 of a medical emergency, as defined in s. 390.01114(2) (d) ~~fact~~
 80 ~~that, to a reasonable degree of medical probability, the~~
 81 ~~termination of pregnancy is necessary to save the life or~~
 82 ~~preserve the health of the pregnant woman; or~~

83 2.(b) The physician certifies in writing to the existence
 84 of a medical emergency, as defined in s. 390.01114(2) (d) ~~medical~~

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85 ~~necessity for legitimate emergency medical procedures for~~
86 ~~termination of pregnancy in the third trimester, and another~~
87 ~~physician is not available for consultation.~~

88 (b) An abortion clinic must provide conspicuous notice on
89 any form or medium of advertisement that the abortion clinic is
90 prohibited from performing abortions in the third trimester or
91 after viability.

92 (2) PHYSICIAN, LOCATION, AND CLINIC LICENSURE AND
93 OWNERSHIP REQUIREMENTS ~~PERFORMANCE BY PHYSICIAN REQUIRED.~~—No
94 termination of pregnancy shall be performed at any time except
95 by a physician as defined in s. 390.011. A physician who offers
96 to perform or performs terminations of pregnancy in an abortion
97 clinic shall annually complete a minimum of 3 hours of
98 continuing education that must relate to ethics.

99 (a) Except for procedures that must be conducted in a
100 hospital or in emergency-care situations, a termination of
101 pregnancy may not be performed in a location other than in a
102 validly licensed hospital, abortion clinic, or physician's
103 office.

104 (b) A person may not establish, conduct, manage, or
105 operate an abortion clinic without a valid current license.

106 (c) A person may not perform or assist in performing an
107 abortion on a person in the third trimester or after viability,
108 other than in a hospital.

109 (d) Other than abortion clinics licensed before October 1,
110 2011, an abortion clinic must be wholly owned and operated by a
111 physician who has received training during residency in
112 performing a dilation-and-curettage procedure or a dilation-and-

113 evacuation procedure.

114 (e) A person who willfully violates paragraph (b),
 115 paragraph (c), or paragraph (d) commits a misdemeanor of the
 116 second degree, punishable as provided in s. 775.082 or s.
 117 775.083.

118 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
 119 sanitary and appropriate manner and in accordance with standard
 120 health practices, as provided by rule of the Department of
 121 Health. Failure to dispose of fetal remains in accordance with
 122 department rules is a misdemeanor of the first ~~second~~ degree,
 123 punishable as provided in s. 775.082 or s. 775.083.

124 (10) PENALTIES FOR VIOLATION.—

125 (a) Except as provided in subsections (3) and (7):

126 1.~~(a)~~ Any person who willfully performs, or actively
 127 participates in, a termination of pregnancy procedure in
 128 violation of the requirements of this section commits a felony
 129 of the third degree, punishable as provided in s. 775.082, s.
 130 775.083, or s. 775.084.

131 2.~~(b)~~ Any person who performs, or actively participates
 132 in, a termination of pregnancy procedure in violation of the
 133 provisions of this section which results in the death of the
 134 woman commits a felony of the second degree, punishable as
 135 provided in s. 775.082, s. 775.083, or s. 775.084.

136 3. A person who knowingly advertises, prints, publishes,
 137 distributes, or circulates, or knowingly causes to be
 138 advertised, printed, published, distributed, or circulated, any
 139 pamphlet, printed paper, book, newspaper notice, advertisement,
 140 or reference containing words or language giving or conveying

141 any notice, hint, or reference to any person, or the name of any
 142 person, real or fictitious, from whom, or to any place, house,
 143 shop, or office where any poison, drug, mixture, preparation,
 144 medicine, or noxious thing, or any instrument or means whatever,
 145 or any advice, direction, information, or knowledge may be
 146 obtained for the purpose of causing or procuring the miscarriage
 147 of any woman pregnant with child, commits a misdemeanor of the
 148 first degree, punishable as provided in s. 775.082 or s.
 149 775.083.

150 (b) The department shall permanently revoke the license of
 151 any licensed health care practitioner who has been convicted or
 152 found guilty of, or entered a plea of guilty or nolo contendere
 153 to, regardless of adjudication, a felony criminal act provided
 154 in paragraph (a).

155 (12) RESPONSIBILITIES OF THE AGENCY.—Before each general
 156 legislative session, the agency shall submit to the Governor,
 157 the President of the Senate, and the Speaker of the House of
 158 Representatives an annual report of aggregate statistical data
 159 relating to abortions, which has been reported to the Division
 160 of Reproductive Health within the Centers for Disease Control
 161 and Prevention, and shall provide such data on its website. Any
 162 information required to be reported under this subsection must
 163 not include any personal identifying information.

164 Section 2. Subsection (1) of section 390.0112, Florida
 165 Statutes, is amended to read:

166 390.0112 Termination of pregnancies; reporting.—

167 (1) The director of any medical facility or physician's
 168 office in which any pregnancy is terminated shall submit a

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169 ~~monthly~~ report to the agency following each termination, on a
170 form developed by the agency which is consistent with the U.S.
171 Standard Report of Induced Termination of Pregnancy from the
172 Centers for Disease Control and Prevention ~~which contains the~~
173 ~~number of procedures performed, the reason for same, and the~~
174 ~~period of gestation at the time such procedures were performed~~
175 ~~to the agency.~~ The agency shall be responsible for keeping such
176 reports in a central place from which statistical data and
177 analysis can be made. The agency shall submit reported data to
178 the Division of Reproductive Health within the Centers for
179 Disease Control and Prevention.

180 Section 3. Paragraph (a) of subsection (3) of section
181 390.012, Florida Statutes, is amended to read:

182 390.012 Powers of agency; rules; disposal of fetal
183 remains.—

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

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

- 190 1. Adequate private space that is specifically designated
191 for interviewing, counseling, and medical evaluations.
- 192 2. Dressing rooms for staff and patients.
- 193 3. Appropriate lavatory areas.
- 194 4. Areas for preprocedure hand washing.
- 195 5. Private procedure rooms.
- 196 6. Adequate lighting and ventilation for abortion

197 | procedures.

198 | 7. Surgical or gynecological examination tables and other
199 | fixed equipment.

200 | 8. Postprocedure recovery rooms that are equipped to meet
201 | the patients' needs.

202 | 9. Emergency exits to accommodate a stretcher or gurney.

203 | 10. Areas for cleaning and sterilizing instruments.

204 | 11. Adequate areas for the secure storage of medical
205 | records and necessary equipment and supplies.

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

209 | 13. Conspicuous notice to be provided on any form or
210 | medium of advertisement of the abortion clinic, which must state
211 | that the abortion clinic is prohibited from performing abortions
212 | in the third trimester or after viability.

213 | Section 4. Subsection (7) of section 456.013, Florida
214 | Statutes, is amended to read:

215 | 456.013 Department; general licensing provisions.—

216 | (7) (a) The boards, or the department when there is no
217 | board, shall require the completion of a 2-hour course relating
218 | to prevention of medical errors as part of the licensure and
219 | renewal process. The 2-hour course shall count towards the total
220 | number of continuing education hours required for the
221 | profession. The course shall be approved by the board or
222 | department, as appropriate, and shall include a study of root-
223 | cause analysis, error reduction and prevention, and patient
224 | safety. In addition, the course approved by the Board of

225 Medicine and the Board of Osteopathic Medicine shall include
 226 information relating to the five most misdiagnosed conditions
 227 during the previous biennium, as determined by the board. If the
 228 course is being offered by a facility licensed pursuant to
 229 chapter 395 for its employees, the board may approve up to 1
 230 hour of the 2-hour course to be specifically related to error
 231 reduction and prevention methods used in that facility.

232 (b) In accordance with the requirement under s. 390.0111,
 233 the boards, or the department when there is no board, shall
 234 require a physician who offers to perform or performs
 235 terminations of pregnancy in an abortion clinic to annually
 236 complete a 3-hour course related to ethics as part of the
 237 licensure and renewal process. The 3-hour course shall count
 238 toward the total number of continuing education hours required
 239 for the profession. The applicable board, or the department when
 240 there is no board, shall approve the course, as appropriate.

241 Section 5. Section 797.02, Florida Statutes, is repealed.

242 Section 6. Section 797.03, Florida Statutes, is repealed.

243 Section 7. If any provision of this act is held invalid
 244 with respect to any person or circumstance, the invalidity does
 245 not affect other provisions or applications of the act which can
 246 be given effect without the invalid provision or application,
 247 and to this end the provisions of this act are declared
 248 severable.

249 Section 8. This act shall take effect October 1, 2011.