

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 or a professional corporation or
21 limited liability company composed of physicians who have
22 received training during residency in performing a
23 dilation-and-curettage procedure and a dilation-and-
24 evacuation procedure; providing a penalty; providing that
25 failure to dispose of fetal remains in accordance with
26 rules of the Department of Health is a misdemeanor of the
27 first degree rather than a misdemeanor of the second
28 degree; clarifying provisions providing that it is a

29 first-degree misdemeanor to unlawfully advertise how to
30 obtain an unlawful abortion; requiring the Department of
31 Health to permanently revoke the license of any health
32 care practitioner who is convicted or found guilty of, or
33 enters a plea of guilty or nolo contendere to, regardless
34 of adjudication, certain felony criminal acts; requiring
35 the Agency for Health Care Administration to submit to the
36 Governor and Legislature an annual report of aggregate
37 statistical data relating to abortions; providing that
38 failure to comply with the requirements of the section is
39 grounds for disciplinary action; requiring rulemaking;
40 amending s. 390.0112, F.S.; requiring the director of a
41 medical facility or physician's office to submit a monthly
42 report to the agency on a form developed by the agency
43 consistent with the U.S. Standard Report of Induced
44 Termination of Pregnancy from the Centers for Disease
45 Control and Prevention; requiring the agency to submit
46 reported data to the Division of Reproductive Health
47 within the Centers for Disease Control and Prevention;
48 providing rulemaking authority; amending s. 390.012, F.S.;
49 requiring the agency to adopt rules that prescribe
50 standards for placing conspicuous notice on any form or
51 medium of advertisement of an abortion clinic which states
52 that the abortion clinic is prohibited from performing
53 abortions in the third trimester or after viability;
54 amending s. 456.013, F.S.; requiring that each applicable
55 board require a physician who offers to perform or
56 performs terminations of pregnancy to annually complete a

57 board-approved course relating to ethics as part of the
 58 licensure and renewal process; providing that the course
 59 counts toward the total number of continuing education
 60 hours required for the profession; repealing s. 797.02,
 61 F.S., relating to the advertising of drugs for abortions;
 62 repealing s. 797.03, F.S., relating to prohibited acts
 63 related to abortions and their penalties; providing for
 64 severability; providing an effective date.

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

67
 68 Section 1. Subsections (1), (2), (7), and (10) of section
 69 390.0111, Florida Statutes, are amended, and subsections (12),
 70 (13), and (14) are added to that section, to read:

71 390.0111 Termination of pregnancies.—

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

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

79 1.(a) Two physicians certify in writing to the fact that,
 80 to a reasonable degree of medical probability, the termination
 81 of pregnancy is necessary to prevent the death of the pregnant
 82 woman or prevent the substantial and irreversible impairment of
 83 a major bodily function ~~save the life or preserve the health of~~
 84 the pregnant woman; or

85 2.~~(b)~~ The physician certifies in writing to the existence
 86 of a medical emergency, as defined in s. 390.01114(2)(d) ~~medical~~
 87 ~~necessity for legitimate emergency medical procedures for~~
 88 ~~termination of pregnancy in the third trimester,~~ and another
 89 physician is not available for consultation.

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

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

101 (a) Except for procedures that must be conducted in a
 102 hospital or in a medical emergency as defined in s. 390.01114, a
 103 termination of pregnancy may not be performed in a location
 104 other than in a validly licensed hospital, abortion clinic, or
 105 physician's office.

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

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

111 (d) Other than abortion clinics licensed before October 1,
 112 2011, an abortion clinic must be wholly owned and operated by a

113 physician who has received training during residency in
114 performing a dilation-and-curettage procedure and a dilation-
115 and-evacuation procedure or a professional corporation or
116 limited liability company composed of physicians who have
117 received training during residency in performing a dilation-and-
118 curettage procedure and a dilation-and-evacuation procedure.

119 (e) A person who willfully violates paragraph (a),
120 paragraph (b), paragraph (c), or paragraph (d) commits a
121 misdemeanor of the second degree, punishable as provided in s.
122 775.082 or s. 775.083.

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

129 (10) PENALTIES FOR VIOLATION.—

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

131 1.(a) Any person who willfully performs, or actively
132 participates in, a termination of pregnancy procedure in
133 violation of the requirements of this section commits a felony
134 of the third degree, punishable as provided in s. 775.082, s.
135 775.083, or s. 775.084.

136 2.(b) Any person who performs, or actively participates
137 in, a termination of pregnancy procedure in violation of the
138 provisions of this section which results in the death of the
139 woman commits a felony of the second degree, punishable as
140 provided in s. 775.082, s. 775.083, or s. 775.084.

141 3. A person who knowingly advertises, prints, publishes,
 142 distributes, or circulates, or knowingly causes to be
 143 advertised, printed, published, distributed, or circulated, any
 144 pamphlet, printed paper, book, newspaper notice, advertisement,
 145 or reference containing words or language giving or conveying
 146 any notice, hint, or reference to any person, or the name of any
 147 person, real or fictitious, from whom, or to any place, house,
 148 shop, or office where any poison, drug, mixture, preparation,
 149 medicine, or noxious thing, or any instrument or means whatever,
 150 or any advice, direction, information, or knowledge may be
 151 obtained for the purpose of performing an abortion in violation
 152 of this chapter, commits a misdemeanor of the first degree,
 153 punishable as provided in s. 775.082 or s. 775.083.

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

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

168 (13) FAILURE TO COMPLY.—Failure to comply with the

169 requirements of this section is grounds for disciplinary action
 170 under each respective practice act and under s. 456.072.

171 (14) RULES.—The applicable boards, or the department where
 172 there is no board, shall adopt rules necessary to implement the
 173 provisions of this section.

174 Section 2. Subsection (1) of section 390.0112, Florida
 175 Statutes, is amended, and subsection (5) is added to that
 176 section, to read:

177 390.0112 Termination of pregnancies; reporting.—

178 (1) The director of any medical facility or physician's
 179 office in which any pregnancy is terminated shall submit a
 180 monthly report to the agency, on a form developed by the agency
 181 which is consistent with the U.S. Standard Report of Induced
 182 Termination of Pregnancy from the Centers for Disease Control
 183 and Prevention ~~which contains the number of procedures~~
 184 ~~performed, the reason for same, and the period of gestation at~~
 185 ~~the time such procedures were performed to the agency.~~ The
 186 agency shall be responsible for keeping such reports in a
 187 central place from which statistical data and analysis can be
 188 made. The agency shall submit reported data to the Division of
 189 Reproductive Health within the Centers for Disease Control and
 190 Prevention.

191 (5) The agency may adopt rules necessary to implement this
 192 section.

193 Section 3. Paragraph (a) of subsection (3) of section
 194 390.012, Florida Statutes, is amended to read:

195 390.012 Powers of agency; rules; disposal of fetal
 196 remains.—

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

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

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

205 2. Dressing rooms for staff and patients.

206 3. Appropriate lavatory areas.

207 4. Areas for preprocedure hand washing.

208 5. Private procedure rooms.

209 6. Adequate lighting and ventilation for abortion
 210 procedures.

211 7. Surgical or gynecological examination tables and other
 212 fixed equipment.

213 8. Postprocedure recovery rooms that are equipped to meet
 214 the patients' needs.

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

216 10. Areas for cleaning and sterilizing instruments.

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

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

222 13. Conspicuous notice to be provided on any form or
 223 medium of advertisement of the abortion clinic, which must state
 224 that the abortion clinic is prohibited from performing abortions

225 in the third trimester or after viability.

226 Section 4. Subsection (7) of section 456.013, Florida
 227 Statutes, is amended to read:

228 456.013 Department; general licensing provisions.—

229 (7) (a) The boards, or the department when there is no
 230 board, shall require the completion of a 2-hour course relating
 231 to prevention of medical errors as part of the licensure and
 232 renewal process. The 2-hour course shall count towards the total
 233 number of continuing education hours required for the
 234 profession. The course shall be approved by the board or
 235 department, as appropriate, and shall include a study of root-
 236 cause analysis, error reduction and prevention, and patient
 237 safety. In addition, the course approved by the Board of
 238 Medicine and the Board of Osteopathic Medicine shall include
 239 information relating to the five most misdiagnosed conditions
 240 during the previous biennium, as determined by the board. If the
 241 course is being offered by a facility licensed pursuant to
 242 chapter 395 for its employees, the board may approve up to 1
 243 hour of the 2-hour course to be specifically related to error
 244 reduction and prevention methods used in that facility.

245 (b) In accordance with the requirement under s. 390.0111,
 246 the boards, or the department when there is no board, shall
 247 require a physician who offers to perform or performs
 248 terminations of pregnancy in an abortion clinic to annually
 249 complete a 3-hour board-approved course related to ethics as
 250 part of the licensure and renewal process. The 3-hour course
 251 shall count toward the total number of continuing education
 252 hours required for the profession.

CS/CS/HB 1397, Engrossed 1

2011

253 Section 5. Section 797.02, Florida Statutes, is repealed.
254 Section 6. Section 797.03, Florida Statutes, is repealed.
255 Section 7. If any provision of this act is held invalid
256 with respect to any person or circumstance, the invalidity does
257 not affect other provisions or applications of the act which can
258 be given effect without the invalid provision or application,
259 and to this end the provisions of this act are declared
260 severable.
261 Section 8. This act shall take effect October 1, 2011.