

1 A bill to be entitled

2 An act relating to women's health care; providing a  
3 popular name; amending s. 390.012, F.S.; revising  
4 requirements for rules of the Agency for Health Care  
5 Administration relating to abortion clinics performing  
6 abortions after the first trimester of pregnancy;  
7 requiring rules that prescribe standards for physical  
8 facilities, supplies and equipment, personnel, screening  
9 and evaluation, the abortion procedure, recovery, follow-up  
10 care, and incident reporting; providing that rules  
11 regulating abortion clinics may not impose an  
12 unconstitutional burden rather than a legally significant  
13 burden on a woman's right to choose to terminate her  
14 pregnancy; providing for severability; providing an  
15 effective date.

16  
17 WHEREAS, abortion is an invasive surgical procedure that  
18 can lead to numerous and serious medical complications,  
19 including, but not limited to, bleeding, hemorrhage, infection,  
20 uterine perforation, blood clots, cervical tears, incomplete  
21 abortion and retained tissue, failure to actually terminate the  
22 pregnancy, free fluid in the abdomen, missed ectopic  
23 pregnancies, cardiac arrest, sepsis, respiratory arrest,  
24 reactions to anesthesia, fertility problems, emotional problems,  
25 and even death, and

26 WHEREAS, the state has a legitimate interest in ensuring  
27 that abortions, like any other medical procedure, be performed  
28 under circumstances that ensure maximum safety for the patient,  
29 and

30 WHEREAS, the risks for abortion are greater after the first  
31 trimester of pregnancy, and

32 WHEREAS, the risk of hemorrhage, in particular, is greater  
33 after the first trimester of pregnancy, and the resultant  
34 complications may require a hysterectomy, other reparative  
35 surgery, or a blood transfusion, NOW, THEREFORE,

36

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

38

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

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

43 390.012 Powers of agency; rules; disposal of fetal  
44 remains.--

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

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

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

57 (c) The rules shall provide for:

58        1.~~(a)~~ The performance of pregnancy termination procedures  
59 only by a licensed physician.

60        2.~~(b)~~ The making, protection, and preservation of patient  
61 records, which shall be treated as medical records under chapter  
62 458.

63        (2) For clinics that perform abortions in the first  
64 trimester of pregnancy only, these rules shall be comparable to  
65 rules that apply to all surgical procedures requiring  
66 approximately the same degree of skill and care as the  
67 performance of first trimester abortions.

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

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

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

76        2. Dressing rooms for staff and patients.

77        3. Appropriate lavatory areas.

78        4. Areas for preprocedure hand washing.

79        5. Private procedure rooms.

80        6. Adequate lighting and ventilation for abortion  
81 procedures.

82        7. Surgical or gynecological examination tables and other  
83 fixed equipment.

84        8. Postprocedure recovery rooms that are equipped to meet  
85 the patients' needs.

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

87 10. Areas for cleaning and sterilizing instruments.

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

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

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

97 1. Prescribe required clean and sterilized equipment and  
 98 supplies, including medications, required for the conduct, in an  
 99 appropriate fashion, of any abortion procedure that the medical  
 100 staff of the clinic anticipates performing and for monitoring  
 101 the progress of each patient throughout the procedure and  
 102 recovery period.

103 2. Prescribe required equipment, supplies, and medications  
 104 that shall be available and ready for immediate use in an  
 105 emergency and requirements for written protocols and procedures  
 106 to be followed by staff in an emergency, such as the loss of  
 107 electrical power.

108 3. Prescribe equipment and supplies for required  
 109 laboratory tests and requirements for protocols to calibrate and  
 110 maintain laboratory equipment or equipment operated by clinic  
 111 staff at the abortion clinic.

112 4. Require ultrasound equipment.

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

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

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

122 2. If a physician is not present after an abortion is  
123 performed, a registered nurse, licensed practical nurse,  
124 advanced registered nurse practitioner, or physician assistant  
125 shall be present and remain at the clinic to provide  
126 postoperative monitoring and care until the patient is  
127 discharged.

128 3. Surgical assistants receive training in counseling,  
129 patient advocacy, and the specific responsibilities associated  
130 with the services the surgical assistants provide.

131 4. Volunteers receive training in the specific  
132 responsibilities associated with the services the volunteers  
133 provide, including counseling and patient advocacy as provided  
134 in the rules adopted by the director for different types of  
135 volunteers based on their responsibilities.

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

139 1. A medical history including reported allergies to  
140 medications, antiseptic solutions, or latex; past surgeries; and  
141 an obstetric and gynecological history.

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

144 3. The appropriate laboratory tests, including:

145 a. For an abortion in which an ultrasound examination is  
146 not performed before the abortion procedure, urine or blood  
147 tests for pregnancy performed before the abortion procedure.

148 b. A test for anemia.

149 c. Rh typing, unless reliable written documentation of  
150 blood type is available.

151 d. Other tests as indicated from the physical examination.

152 4. An ultrasound evaluation for all patients who elect to  
153 have an abortion after the first trimester. The rules shall  
154 require that if a person who is not a physician performs an  
155 ultrasound examination, that person shall have documented  
156 evidence that he or she has completed a course in the operation  
157 of ultrasound equipment as prescribed in rule. The physician,  
158 registered nurse, licensed practical nurse, advanced registered  
159 nurse practitioner, or physician assistant shall review, at the  
160 request of the patient, the ultrasound evaluation results,  
161 including an estimate of the probable gestational age of the  
162 fetus, with the patient before the abortion procedure is  
163 performed.

164 5. That the physician is responsible for estimating the  
165 gestational age of the fetus based on the ultrasound examination  
166 and obstetric standards in keeping with established standards of  
167 care regarding the estimation of fetal age as defined in rule  
168 and shall write the estimate in the patient's medical history.  
169 The physician shall keep original prints of each ultrasound  
170 examination of a patient in the patient's medical history file.

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

173 1. That a physician, registered nurse, licensed practical  
174 nurse, advanced registered nurse practitioner, or physician  
175 assistant is available to all patients throughout the abortion  
176 procedure.

177 2. Standards for the safe conduct of abortion procedures  
178 that conform to obstetric standards in keeping with established  
179 standards of care regarding the estimation of fetal age as  
180 defined in rule.

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

183 4. Appropriate precautions, such as the establishment of  
184 intravenous access at least for patients undergoing post-first  
185 trimester abortions.

186 5. Appropriate monitoring of the vital signs and other  
187 defined signs and markers of the patient's status throughout the  
188 abortion procedure and during the recovery period until the  
189 patient's condition is deemed to be stable in the recovery room.

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

192 1. Postprocedure recovery rooms are supervised and staffed  
193 to meet the patients' needs.

194 2. Immediate postprocedure care consists of observation in  
195 a supervised recovery room for as long as the patient's  
196 condition warrants.

197 3. The clinic arranges hospitalization if any complication  
198 beyond the medical capability of the staff occurs or is  
199 suspected.

200 4. A registered nurse, licensed practical nurse, advanced  
201 registered nurse practitioner, or physician assistant who is

202 trained in the management of the recovery area and is capable of  
203 providing basic cardiopulmonary resuscitation and related  
204 emergency procedures remains on the premises of the abortion  
205 clinic until all patients are discharged.

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

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

217 7. Written instructions with regard to postabortion  
218 coitus, signs of possible problems, and general aftercare are  
219 given to each patient. Each patient shall have specific written  
220 instructions regarding access to medical care for complications,  
221 including a telephone number to call for medical emergencies.

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

225 9. The physician ensures that a registered nurse, licensed  
226 practical nurse, advanced registered nurse practitioner, or  
227 physician assistant from the abortion clinic makes a good faith  
228 effort to contact the patient by telephone, with the patient's  
229 consent, within 24 hours after surgery to assess the patient's  
230 recovery.



231       10. Equipment and services are readily accessible to  
232 provide appropriate emergency resuscitative and life support  
233 procedures pending the transfer of the patient or viable fetus  
234 to the hospital.

235       (g) Rules that prescribe standards for followup care. At a  
236 minimum, these rules shall require that:

237       1. A postabortion medical visit that includes a medical  
238 examination and a review of the results of all laboratory tests  
239 is offered.

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

242       3. If a continuing pregnancy is suspected, the patient  
243 shall be evaluated and a physician who performs abortions shall  
244 be consulted.

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

247       1. The abortion clinic records each incident that results  
248 in serious injury to a patient or a viable fetus at an abortion  
249 clinic and shall report an incident in writing to the agency  
250 within 10 days after the incident occurs. For the purposes of  
251 this paragraph, "serious injury" means an injury that occurs at  
252 an abortion clinic and that creates a serious risk of  
253 substantial impairment of a major bodily organ.

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

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

260           (5) The provisions of this section and the rules adopted  
261 pursuant hereto shall be in addition to any other laws, rules,  
262 and regulations which are applicable to facilities defined as  
263 abortion clinics under this section.

264           ~~(6)(2)~~ The agency may adopt and enforce rules, in the  
265 interest of protecting the public health, to ensure the prompt  
266 and proper disposal of fetal remains and tissue resulting from  
267 pregnancy termination.

268           ~~(7)(3)~~ If any owner, operator, or employee of an abortion  
269 clinic fails to dispose of fetal remains and tissue in a manner  
270 consistent with the disposal of other human tissue in a  
271 competent professional manner, the license of such clinic may be  
272 suspended or revoked, and such person is guilty of a misdemeanor  
273 of the first degree, punishable as provided in s. 775.082 or s.  
274 775.083.

275           Section 3. If any provision of this act or the application  
276 thereof to any person or circumstance is held invalid, the  
277 invalidity shall not affect other provisions or applications of  
278 the act which can be given effect without the invalid provision  
279 or application. To this end, the provisions of this act are  
280 declared severable.

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