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HB 633, Engrossed 1

2015 Legislature

1  
2 An act relating to informed patient consent; amending  
3 s. 390.0111, F.S.; revising conditions for the  
4 voluntary and informed consent to a termination of  
5 pregnancy; reenacting s. 390.012(3)(d), F.S., relating  
6 to Agency for Health Care Administration rules  
7 regarding medical screening and evaluation of abortion  
8 clinic patients, to incorporate the amendment made by  
9 this act to s. 390.0111, F.S., in a reference thereto;  
10 providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Paragraph (a) of subsection (3) of section  
15 390.0111, Florida Statutes, is amended to read:

16 390.0111 Termination of pregnancies.—

17 (3) CONSENTS REQUIRED.—A termination of pregnancy may not  
18 be performed or induced except with the voluntary and informed  
19 written consent of the pregnant woman or, in the case of a  
20 mental incompetent, the voluntary and informed written consent  
21 of her court-appointed guardian.

22 (a) Except in the case of a medical emergency, consent to  
23 a termination of pregnancy is voluntary and informed only if:

24 1. The physician who is to perform the procedure, or the  
25 referring physician, has, at a minimum, orally, while physically  
26 present in the same room, and at least 24 hours before the



ENROLLED

HB 633, Engrossed 1

2015 Legislature

27 | procedure ~~in person~~, informed the woman of:

28 |       a. The nature and risks of undergoing or not undergoing  
29 | the proposed procedure that a reasonable patient would consider  
30 | material to making a knowing and willful decision of whether to  
31 | terminate a pregnancy.

32 |       b. The probable gestational age of the fetus, verified by  
33 | an ultrasound, at the time the termination of pregnancy is to be  
34 | performed.

35 |       (I) The ultrasound must be performed by the physician who  
36 | is to perform the abortion or by a person having documented  
37 | evidence that he or she has completed a course in the operation  
38 | of ultrasound equipment as prescribed by rule and who is working  
39 | in conjunction with the physician.

40 |       (II) The person performing the ultrasound must offer the  
41 | woman the opportunity to view the live ultrasound images and  
42 | hear an explanation of them. If the woman accepts the  
43 | opportunity to view the images and hear the explanation, a  
44 | physician or a registered nurse, licensed practical nurse,  
45 | advanced registered nurse practitioner, or physician assistant  
46 | working in conjunction with the physician must contemporaneously  
47 | review and explain the images to the woman before the woman  
48 | gives informed consent to having an abortion procedure  
49 | performed.

50 |       (III) The woman has a right to decline to view and hear  
51 | the explanation of the live ultrasound images after she is  
52 | informed of her right and offered an opportunity to view the



ENROLLED

HB 633, Engrossed 1

2015 Legislature

53 | images and hear the explanation. If the woman declines, the  
54 | woman shall complete a form acknowledging that she was offered  
55 | an opportunity to view and hear the explanation of the images  
56 | but that she declined that opportunity. The form must also  
57 | indicate that the woman's decision was not based on any undue  
58 | influence from any person to discourage her from viewing the  
59 | images or hearing the explanation and that she declined of her  
60 | own free will.

61 | (IV) Unless requested by the woman, the person performing  
62 | the ultrasound may not offer the opportunity to view the images  
63 | and hear the explanation and the explanation may not be given  
64 | if, at the time the woman schedules or arrives for her  
65 | appointment to obtain an abortion, a copy of a restraining  
66 | order, police report, medical record, or other court order or  
67 | documentation is presented which provides evidence that the  
68 | woman is obtaining the abortion because the woman is a victim of  
69 | rape, incest, domestic violence, or human trafficking or that  
70 | the woman has been diagnosed as having a condition that, on the  
71 | basis of a physician's good faith clinical judgment, would  
72 | create a serious risk of substantial and irreversible impairment  
73 | of a major bodily function if the woman delayed terminating her  
74 | pregnancy.

75 | c. The medical risks to the woman and fetus of carrying  
76 | the pregnancy to term.

77 |  
78 | The physician may provide the information required in this



ENROLLED

HB 633, Engrossed 1

2015 Legislature

79 subparagraph within 24 hours before the procedure if requested  
80 by the woman at the time she schedules or arrives for her  
81 appointment to obtain an abortion and if she presents to the  
82 physician a copy of a restraining order, police report, medical  
83 record, or other court order or documentation evidencing that  
84 she is obtaining the abortion because she is a victim of rape,  
85 incest, domestic violence, or human trafficking.

86 2. Printed materials prepared and provided by the  
87 department have been provided to the pregnant woman, if she  
88 chooses to view these materials, including:

89 a. A description of the fetus, including a description of  
90 the various stages of development.

91 b. A list of entities that offer alternatives to  
92 terminating the pregnancy.

93 c. Detailed information on the availability of medical  
94 assistance benefits for prenatal care, childbirth, and neonatal  
95 care.

96 3. The woman acknowledges in writing, before the  
97 termination of pregnancy, that the information required to be  
98 provided under this subsection has been provided.

99

100 Nothing in this paragraph is intended to prohibit a physician  
101 from providing any additional information which the physician  
102 deems material to the woman's informed decision to terminate her  
103 pregnancy.

104 Section 2. For the purpose of incorporating the amendment



ENROLLED

HB 633, Engrossed 1

2015 Legislature

105 | made by this act to section 390.0111, Florida Statutes, in a  
 106 | reference thereto, paragraph (d) of subsection (3) of section  
 107 | 390.012, Florida Statutes, is reenacted to read:

108 |       390.012 Powers of agency; rules; disposal of fetal  
 109 | remains.—

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

114 |       (d) Rules relating to the medical screening and evaluation  
 115 | of each abortion clinic patient. At a minimum, these rules shall  
 116 | require:

117 |           1. A medical history including reported allergies to  
 118 | medications, antiseptic solutions, or latex; past surgeries; and  
 119 | an obstetric and gynecological history.

120 |           2. A physical examination, including a bimanual  
 121 | examination estimating uterine size and palpation of the adnexa.

122 |           3. The appropriate laboratory tests, including:

123 |               a. Urine or blood tests for pregnancy performed before the  
 124 | abortion procedure.

125 |               b. A test for anemia.

126 |               c. Rh typing, unless reliable written documentation of  
 127 | blood type is available.

128 |               d. Other tests as indicated from the physical examination.

129 |           4. An ultrasound evaluation for all patients. The rules  
 130 | shall require that if a person who is not a physician performs



ENROLLED

HB 633, Engrossed 1

2015 Legislature

131 an ultrasound examination, that person shall have documented  
132 evidence that he or she has completed a course in the operation  
133 of ultrasound equipment as prescribed in rule. The rules shall  
134 require clinics to be in compliance with s. 390.0111.

135 5. That the physician is responsible for estimating the  
136 gestational age of the fetus based on the ultrasound examination  
137 and obstetric standards in keeping with established standards of  
138 care regarding the estimation of fetal age as defined in rule  
139 and shall write the estimate in the patient's medical history.  
140 The physician shall keep original prints of each ultrasound  
141 examination of a patient in the patient's medical history file.

142 Section 3. This act shall take effect July 1, 2015.