

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 1848

By: Treat of the Senate

and

Grau of the House

COMMITTEE SUBSTITUTE

An Act relating to public health; directing State Board of Health to establish certain standards; requiring physicians with certain privileges to remain at certain facilities for certain time period; requiring certain training for physicians, physician assistants, and volunteers; requiring medical screenings prior to performance of abortion; providing standards for screenings; requiring offer of examination after abortion; requiring certain facilities to keep certain records; requiring reporting of injuries and death to State Department of Health; requiring filing of incident reports to appropriate boards; providing penalties for performance of abortions without licensure; authorizing certain legal action against certain persons; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-748 of Title 63, unless there is created a duplication in numbering, reads as follows:

1 A. The State Board of Health shall establish abortion facility
2 supplies and equipment standards, including equipment required to be
3 immediately available for use in an emergency. Such standards
4 shall, at a minimum:

5 1. Specify required equipment and supplies, including
6 medications, required for the performance of abortion procedures and
7 for monitoring the progress of each patient throughout the abortion
8 procedure and post-procedure recovery period;

9 2. Require that the number or amount of equipment and supplies
10 at the facility is adequate at all times to assure sufficient
11 quantities of clean and sterilized durable equipment and supplies to
12 meet the needs of each patient;

13 3. Specify the mandated equipment and supplies for required
14 laboratory tests and the requirements for protocols to calibrate and
15 maintain laboratory equipment at the abortion facility or operated
16 by facility staff;

17 4. Require ultrasound equipment in all abortion facilities; and

18 5. Require that all equipment is safe for the patient and
19 facility staff, meets applicable federal standards, and is checked
20 annually to ensure safety and appropriate calibration.

21 B. On any day when any abortion is performed in a facility
22 providing abortions, a physician with admitting privileges at an
23 accredited hospital in this state within thirty (30) miles of where
24 the abortion is being performed must remain on the premises of the

1 facility to facilitate the transfer of emergency cases if
2 hospitalization of an abortion patient or a child born alive is
3 necessary and until all abortion patients are stable and ready to
4 leave the recovery room.

5 C. The State Board of Health shall adopt standards relating to
6 the training physician assistants licensed pursuant to the
7 provisions of Section 519.1 of Title 59 of the Oklahoma Statutes and
8 employed by or providing services in a facility providing abortions
9 shall receive in counseling, patient advocacy, and the specific
10 medical and other services.

11 D. The State Board of Health shall adopt standards related to
12 the training that volunteers at facilities providing abortions shall
13 receive in the specific services that the volunteers provide,
14 including counseling and patient advocacy.

15 E. The State Board of Health shall adopt standards related to
16 the medical screening and evaluation of each abortion patient. At
17 minimum these standards shall require:

- 18 1. A medical history including the following:
 - 19 a. reported allergies to medications, antiseptic
 - 20 solutions, and latex,
 - 21 b. obstetric and gynecological history,
 - 22 c. past surgeries, and
 - 23 d. medication the patient is currently taking.

1 2. A physical examination including a bimanual examination
2 estimating uterine size and palpation of the adnexa;

3 3. The appropriate pre-procedure testing including:

4 a. urine or blood tests for pregnancy, if ordered by a
5 physician,

6 b. a test for anemia,

7 c. Rh typing, unless reliable written documentation of
8 blood type is available, and

9 d. an ultrasound evaluation for all patients who elect to
10 have an abortion. The physician performing the
11 abortion is responsible for estimating the gestational
12 age of the unborn child based on the ultrasound
13 examination and established standards of obstetrical
14 care and shall write the estimate in the patient's
15 medical record. An original print of each ultrasound
16 examination of the patient shall be kept in the
17 patient's medical record.

18 F. The State Board of Health shall adopt standards related to
19 the performance of the abortion procedure and post-procedure follow-
20 up care. At minimum these standards shall require:

21 1. That medical personnel are available to all abortion
22 patients throughout the procedure;

23 2. The appropriate use of local anesthesia, analgesia, and
24 sedation if ordered by the physician performing the procedure;

1 3. The use of appropriate precautions, such as the
2 establishment of intravenous access;

3 4. That the physician performing the abortion procedure
4 monitors the patient's vital signs and other defined signs and
5 markers of the patient's status throughout the procedure and during
6 the recovery period until the patient's condition is deemed to be
7 stable in the recovery room;

8 5. Immediate post-procedure care and observation in a
9 supervised recovery room for as long as the patient's condition
10 warrants;

11 6. That the facility in which the abortion procedure is
12 performed arranges for a patient's hospitalization if any
13 complication beyond the management capability of the abortion
14 facility's medical staff occurs or is suspected;

15 7. That a licensed health care professional trained in the
16 management of the recovery room and capable of providing
17 cardiopulmonary resuscitation actively monitors patients in the
18 recovery room;

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

22 9. That a physician discusses RhO(D) immune globulin with each
23 patient for whom it is indicated and assures it is offered to the
24 patient in the immediate post-operative period or that it will be

1 available to her within seventy-two (72) hours after completion of
2 the abortion procedure. If the patient refuses, a refusal form
3 approved by the State Board of Health shall be signed by the patient
4 and a witness and included in the medical record;

5 10. Written instructions with regard to post-abortion coitus,
6 signs of possible complications, and general aftercare are given to
7 each patient. Each patient shall have specific instructions
8 regarding access to medical care for complications, including a
9 telephone number to call for medical emergencies;

10 11. That the physician ensures that a licensed health care
11 professional from the abortion facility makes a good faith effort to
12 contact the patient by phone, with the patient's consent, within
13 twenty-four (24) hours after procedure to assess the patient's
14 recovery;

15 12. Equipment and services are located in the recovery room to
16 provide appropriate emergency and resuscitative life support
17 procedures pending the transfer of the patient or a child born alive
18 in the facility;

19 13. That a post-abortion medical visit shall be offered to each
20 abortion patient and, if requested, scheduled for two (2) to three
21 (3) weeks after the abortion procedure and shall include a medical
22 examination and a review of the results of all laboratory tests; and

23 14. That a urine or blood test shall be obtained at the time of
24 the follow-up visit to rule out continued pregnancy. If a

1 continuing pregnancy is suspected, the patient shall be
2 appropriately evaluated; and a physician who performs abortions
3 shall be consulted.

4 G. Facilities performing abortions shall record each incident
5 resulting in a patient's or a born-alive child's injury occurring at
6 the facility and shall report incidents in writing to the State
7 Board of Health within ten (10) days of the incident. For the
8 purposes of this subsection, "injury" shall mean an injury that
9 occurs at the facility and creates a serious risk of substantial
10 impairment of a major body organ or function.

11 H. If a patient's death occurs, other than the death of an
12 unborn child properly reported pursuant to law, the facility
13 performing abortions shall report the death to the State Board of
14 Health no later than the next business day.

15 I. Incident reports shall be filed with the State Board of
16 Health and all appropriate professional licensing and regulatory
17 boards, including but not limited to the State Board of Medical
18 Licensure and Supervision and the State Board of Nursing.

19 J. Whoever operates a facility performing abortions without a
20 valid license shall be guilty of a felony. Any person who
21 intentionally, knowingly, or recklessly violates the provisions of
22 this act or any standards adopted by the State Board of Health in
23 accordance with this act shall be guilty of a felony.

1 K. Any violation of this act or any standards adopted under
2 this act may be subject to a civil penalty or fine up to Twenty-five
3 Thousand Dollars (\$25,000.00) imposed by the State Board of Health.
4 Each day of violation constitutes a separate violation for purposes
5 of assessing civil penalties or fines. In deciding whether and to
6 what extent to impose civil penalties or fines, the State Board of
7 Health shall consider the following factors:

8 1. Gravity of the violation including the probability that
9 death or serious physical harm to a patient or individual will
10 result or has resulted;

11 2. Size of the population at risk as a consequence of the
12 violation;

13 3. Severity and scope of the actual or potential harm;

14 4. Extent to which the provisions of the applicable statutes or
15 regulations were violated;

16 5. Any indications of good faith exercised by facility;

17 6. The duration, frequency, and relevance of any previous
18 violations committed by the facility; and

19 7. Financial benefit to the facility of committing or
20 continuing the violation.

21 L. In addition to any other penalty provided by law, whenever
22 in the judgment of the State Commissioner of Health any person has
23 engaged, or is about to engage, in any acts or practices which
24 constitute, or will constitute, a violation of this act, or any

1 standard adopted in accordance with this act, the Commissioner shall
2 make application to any court of competent jurisdiction for an order
3 enjoining such acts and practices. Upon a showing by the
4 Commissioner that such person has engaged, or is about to engage, in
5 any such acts or practices, an injunction, restraining order, or
6 such other order as may be appropriate shall be granted by such
7 court without bond.

8 SECTION 2. This act shall become effective November 1, 2014.

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