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February 26, 2014

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1848

By: Treat and Newberry of the
Senate

and

Grau and Christian of the House

[public health - standards - certain training for
physicians, physician assistants, and volunteers -
abortion - codification - 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:

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

1. Specify required equipment and supplies, including medications, required for the performance of abortion procedures and

1 for monitoring the progress of each patient throughout the abortion
2 procedure and post-procedure recovery period;

3 2. Require that the number or amount of equipment and supplies
4 at the facility is adequate at all times to assure sufficient
5 quantities of clean and sterilized durable equipment and supplies to
6 meet the needs of each patient;

7 3. Specify the mandated equipment and supplies for required
8 laboratory tests and the requirements for protocols to calibrate and
9 maintain laboratory equipment at the abortion facility or operated
10 by facility staff;

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

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

15 B. On any day when any abortion is performed in a facility
16 providing abortions, a physician with admitting privileges at an
17 accredited hospital in this state within thirty (30) miles of where
18 the abortion is being performed must remain on the premises of the
19 facility to facilitate the transfer of emergency cases if
20 hospitalization of an abortion patient or a child born alive is
21 necessary and until all abortion patients are stable and ready to
22 leave the recovery room.

23 C. The State Board of Health shall adopt standards relating to
24 the training physician assistants licensed pursuant to the

1 provisions of Section 519.1 of Title 59 of the Oklahoma Statutes and
2 employed by or providing services in a facility providing abortions
3 shall receive in counseling, patient advocacy, and the specific
4 medical and other services.

5 D. The State Board of Health shall adopt standards related to
6 the training that volunteers at facilities providing abortions shall
7 receive in the specific services that the volunteers provide,
8 including counseling and patient advocacy.

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

12 1. A medical history including the following:

- 13 a. reported allergies to medications, antiseptic
- 14 solutions, and latex,
- 15 b. obstetric and gynecological history,
- 16 c. past surgeries, and
- 17 d. medication the patient is currently taking.

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

20 3. The appropriate pre-procedure testing including:

- 21 a. urine or blood tests for pregnancy, if ordered by a
- 22 physician,
- 23 b. a test for anemia,
- 24

- 1 c. Rh typing, unless reliable written documentation of
2 blood type is available, and
- 3 d. an ultrasound evaluation for all patients who elect to
4 have an abortion. The physician performing the
5 abortion is responsible for estimating the gestational
6 age of the unborn child based on the ultrasound
7 examination and established standards of obstetrical
8 care and shall write the estimate in the patient's
9 medical record. An original print of each ultrasound
10 examination of the patient shall be kept in the
11 patient's medical record.

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

15 1. That medical personnel are available to all abortion
16 patients throughout the procedure;

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

19 3. The use of appropriate precautions, such as the
20 establishment of intravenous access;

21 4. That the physician performing the abortion procedure
22 monitors the patient's vital signs and other defined signs and
23 markers of the patient's status throughout the procedure and during
24

1 the recovery period until the patient's condition is deemed to be
2 stable in the recovery room;

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

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

10 7. That a licensed health care professional trained in the
11 management of the recovery room and capable of providing
12 cardiopulmonary resuscitation actively monitors patients in the
13 recovery room;

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

17 9. That a physician discusses RhO(D) immune globulin with each
18 patient for whom it is indicated and assures it is offered to the
19 patient in the immediate post-operative period or that it will be
20 available to her within seventy-two (72) hours after completion of
21 the abortion procedure. If the patient refuses, a refusal form
22 approved by the State Board of Health shall be signed by the patient
23 and a witness and included in the medical record;

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

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

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

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

19 14. That a urine or blood test shall be obtained at the time of
20 the follow-up visit to rule out continued pregnancy. If a
21 continuing pregnancy is suspected, the patient shall be
22 appropriately evaluated; and a physician who performs abortions
23 shall be consulted.
24

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

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

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

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

21 K. Any violation of this act or any standards adopted under
22 this act may be subject to a civil penalty or fine up to Twenty-five
23 Thousand Dollars (\$25,000.00) imposed by the State Board of Health.
24 Each day of violation constitutes a separate violation for purposes

1 of assessing civil penalties or fines. In deciding whether and to
2 what extent to impose civil penalties or fines, the State Board of
3 Health shall consider the following factors:

4 1. Gravity of the violation including the probability that
5 death or serious physical harm to a patient or individual will
6 result or has resulted;

7 2. Size of the population at risk as a consequence of the
8 violation;

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

10 4. Extent to which the provisions of the applicable statutes or
11 regulations were violated;

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

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

15 7. Financial benefit to the facility of committing or
16 continuing the violation.

17 L. In addition to any other penalty provided by law, whenever
18 in the judgment of the State Commissioner of Health any person has
19 engaged, or is about to engage, in any acts or practices which
20 constitute, or will constitute, a violation of this act, or any
21 standard adopted in accordance with this act, the Commissioner shall
22 make application to any court of competent jurisdiction for an order
23 enjoining such acts and practices. Upon a showing by the
24 Commissioner that such person has engaged, or is about to engage, in

1 any such acts or practices, an injunction, restraining order, or
2 such other order as may be appropriate shall be granted by such
3 court without bond.

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

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
6 February 26, 2014 - DO PASS AS AMENDED
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