

HOUSE BILL No. 2819

By Representatives P. Long, Cook, Dahl, DeCastro, Faber, Howell, Huebert, Hutchins, Huy, Kauffman, Landwehr, Lloyd, Mason, Mays, McClure, McCreary, Merrick, Miller, Judy Morrison, Myers, Osborne, Ostmeyer, Pauls, L. Powell, T. Powell, Thimesch, Toplikar, Vickrey and D. Williams

2-8

AN ACT concerning abortion clinics; standards for the operation thereof; providing penalties for violations and authorizing injunctive actions.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:

(1) "Secretary" means the secretary of health and environment.

(2) "Abortion clinic" means a facility, other than an accredited hospital, in which five or more first trimester abortions in any month or any second or third trimester abortions are performed.

(3) "Department" means the department of health and environment.

(4) "Physician" means a person licensed to practice medicine and surgery in this state.

(b) The secretary shall adopt rules and regulations for an abortion clinic's physical facilities. At a minimum these rules and regulations shall prescribe standards for:

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

(2) Dressing rooms for staff and patients.

(3) Appropriate lavatory areas.

(4) Areas for preprocedure hand washing.

(5) Private procedure rooms.

(6) Adequate lighting and ventilation for abortion procedures.

(7) Surgical or gynecologic examination tables and other fixed equipment.

(8) Postprocedure recovery rooms that are supervised, staffed and equipped to meet the patients' needs.

(9) Emergency exits to accommodate a stretcher or gurney.

(10) Areas for cleaning and sterilizing instruments.

(11) Adequate areas for the secure storage of medical records and necessary equipment and supplies.

(12) The display in the abortion clinic, in a place that is conspicuous

1 to all patients, of the clinic's current license issued by the department.

2 (b) The secretary shall adopt rules and regulations to prescribe abor-
3 tion clinic supplies and equipment standards, including supplies and
4 equipment that are required to be immediately available for use or in an
5 emergency. At a minimum these rules and regulations shall:

6 (1) Prescribe required equipment and supplies, including medica-
7 tions, required for the conduct, in an appropriate fashion, of any abortion
8 procedure that the medical staff of the clinic anticipates performing and
9 for monitoring the progress of each patient throughout the procedure
10 and recovery period.

11 (2) Require that the number or amount of equipment and supplies
12 at the clinic is adequate at all times to assure sufficient quantities of clean
13 and sterilized durable equipment and supplies to meet the needs of each
14 patient.

15 (3) Prescribe required equipment, supplies and medications that shall
16 be available and ready for immediate use in an emergency and require-
17 ments for written protocols and procedures to be followed by staff in an
18 emergency, such as the loss of electrical power.

19 (4) Prescribe required equipment and supplies for required labora-
20 tory tests and requirements for protocols to calibrate and maintain labo-
21 ratory equipment at the abortion clinic or operated by clinic staff.

22 (5) Require ultrasound equipment in those facilities that provide
23 abortions after 12 weeks' gestation.

24 (6) Require that all equipment is safe for the patient and the staff,
25 meets applicable federal standards and is checked annually to ensure
26 safety and appropriate calibration.

27 (c) The secretary shall adopt rules and regulations relating to abortion
28 clinic personnel. At a minimum these rules and regulations shall require
29 that:

30 (1) The abortion clinic designate a medical director of the abortion
31 clinic who is licensed to practice medicine and surgery in Kansas.

32 (2) Physicians performing surgery in an abortion clinic are licensed
33 to practice medicine and surgery in Kansas, demonstrate competence in
34 the procedure involved and are acceptable to the medical director of the
35 abortion clinic.

36 (3) A physician with admitting privileges at an accredited hospital in
37 this state is available.

38 (4) A licensed nurse is present during any examination performed by
39 a physician on a patient.

40 (5) A registered nurse, nurse practitioner, licensed practical nurse or
41 physician assistant is present and remains at the clinic when abortions are
42 performed to provide postoperative monitoring and care until each pa-
43 tient who had an abortion that day is discharged.

1 (6) Surgical assistants receive training in counseling, patient advocacy
2 and the specific responsibilities of the services the surgical assistants
3 provide.

4 (7) Volunteers receive training in the specific responsibilities of the
5 services the volunteers provide, including counseling and patient advo-
6 cacy as provided in the rules and regulations adopted by the director for
7 different types of volunteers based on their responsibilities.

8 (d) The secretary shall adopt rules and regulations relating to the
9 medical screening and evaluation of each abortion clinic patient. At a
10 minimum these rules and regulations shall require:

11 (1) A medical history including the following:

12 (A) Reported allergies to medications, antiseptic solutions or latex.

13 (B) Obstetric and gynecologic history.

14 (C) Past surgeries.

15 (2) A physical examination including a bimanual examination esti-
16 mating uterine size and palpation of the adnexa.

17 (3) The appropriate laboratory tests including:

18 (A) For an abortion in which an ultrasound examination is not per-
19 formed before the abortion procedure, urine or blood tests for pregnancy
20 performed before the abortion procedure.

21 (B) A test for anemia.

22 (C) Rh typing, unless reliable written documentation of blood type is
23 available.

24 (D) Other tests as indicated from the physical examination.

25 (4) An ultrasound evaluation for all patients who elect to have an
26 abortion after 12 weeks gestation. The rules shall require that if a person
27 who is not a physician performs an ultrasound examination, that person
28 shall have documented evidence that the person completed a course in
29 the operation of ultrasound equipment as prescribed in rule and regula-
30 tion. The physician or other health care professional shall review, at the
31 request of the patient, the ultrasound evaluation results with the patient
32 before the abortion procedure is performed, including the probable ges-
33 tational age of the fetus.

34 (5) That the physician is responsible for estimating the gestational
35 age of the fetus based on the ultrasound examination and obstetric stan-
36 dards in keeping with established standards of care regarding the esti-
37 mation of fetal age as defined in rule and regulation and shall write the
38 estimate in the patient's medical history. The physician shall keep original
39 prints of each ultrasound examination of a patient in the patient's medical
40 history file.

41 (e) The secretary shall adopt rules and regulations relating to the
42 abortion procedure. At a minimum these rules and regulations shall
43 require:

1 (1) That medical personnel is available to all patients throughout the
2 abortion procedure.

3 (2) Standards for the safe conduct of abortion procedures that con-
4 form to obstetric standards in keeping with established standards of care
5 regarding the estimation of fetal age as defined in rule and regulation.

6 (3) Appropriate use of local anesthesia, analgesia and sedation if or-
7 dered by the physician.

8 (4) The use of appropriate precautions, such as the establishment of
9 intravenous access at least for patients undergoing second or third tri-
10 mester abortions.

11 (5) The use of appropriate monitoring of the vital signs and other
12 defined signs and markers of the patient's status throughout the abortion
13 procedure and during the recovery period until the patient's condition is
14 deemed to be stable in the recovery room.

15 (f) The secretary shall adopt rules and regulations that prescribe min-
16 imum recovery room standards. At a minimum these rules and regulations
17 shall require that:

18 (1) Immediate postprocedure care consists of observation in a super-
19 vised recovery room for as long as the patient's condition warrants.

20 (2) The clinic arrange hospitalization if any complication beyond the
21 management capability of the staff occurs or is suspected.

22 (3) A licensed health professional who is trained in the management
23 of the recovery area and is capable of providing basic cardiopulmonary
24 resuscitation and related emergency procedures remains on the premises
25 of the abortion clinic until all patients are discharged.

26 (4) A physician with admitting privileges at a licensed hospital in this
27 state remains on the premises of the abortion clinic until all patients are
28 stable and are ready to leave the recovery room and to facilitate the trans-
29 fer of emergency cases if hospitalization of the patient or viable fetus is
30 necessary. A physician shall sign the discharge order and be readily ac-
31 cessible and available until the last patient is discharged.

32 (5) A physician discusses Rho(d) immune globulin with each patient
33 for whom it is indicated and assures it is offered to the patient in the
34 immediate postoperative period or that it will be available to her within
35 72 hours after completion of the abortion procedure. If the patient re-
36 fuses, a refusal form approved by the department shall be signed by the
37 patient and a witness and included in the medical record.

38 (6) Written instructions with regard to postabortion coitus, signs of
39 possible problems and general aftercare are given to each patient. Each
40 patient shall have specific instructions regarding access to medical care
41 for complications, including a telephone number to call for medical
42 emergencies.

43 (7) There is a specified minimum length of time that a patient re-

1 mains in the recovery room by type of abortion procedure and duration
2 of gestation.

3 (8) The physician assures that a licensed health professional from the
4 abortion clinic makes a good faith effort to contact the patient by tele-
5 phone, with the patient's consent, within 24 hours after surgery to assess
6 the patient's recovery.

7 (9) Equipment and services are located in the recovery room to pro-
8 vide appropriate emergency resuscitative and life support procedures
9 pending the transfer of the patient or viable fetus to the hospital.

10 (g) The secretary shall adopt rules and regulations that prescribe stan-
11 dards for follow-up visits. At a minimum these rules and regulations shall
12 require that:

13 (1) A postabortion medical visit is offered and, if requested, sched-
14 uled for three weeks after the abortion, including a medical examination
15 and a review of the results of all laboratory tests.

16 (2) A urine pregnancy test is obtained at the time of the follow-up
17 visit to rule out continuing pregnancy. If a continuing pregnancy is sus-
18 pected, the patient shall be evaluated and a physician who performs abor-
19 tions shall be consulted.

20 (h) The secretary shall adopt rules and regulations to prescribe min-
21 imum abortion clinic incident reporting. At a minimum these rules and
22 regulations shall require that:

23 (1) The abortion clinic records each incident resulting in a patient's
24 or viable fetus' serious injury occurring at an abortion clinic and shall
25 report them in writing to the department within 10 days after the incident.
26 For the purposes of this paragraph, "serious injury" means an injury that
27 occurs at an abortion clinic and that creates a serious risk of substantial
28 impairment of a major body organ.

29 (2) If a patient's death occurs, other than a fetal death properly re-
30 ported pursuant to law, the abortion clinic shall report such death to the
31 department of health and environment not later than the next department
32 business day.

33 (3) Incident reports are filed with the department of health and en-
34 vironment and appropriate professional regulatory boards.

35 (i) The department of health and environment shall not release per-
36 sonally identifiable patient or physician information obtained under this
37 section.

38 (j) The rules and regulations adopted by the secretary pursuant to
39 this section do not limit the ability of a physician or other health care
40 professional to advise a patient on any health issue.

41 (k) The provisions of this act and the rules and regulations adopted
42 pursuant thereto shall be in addition to any other laws and rules and
43 regulations which are applicable to facilities defined as abortion clinics

1 under this section.

2 (l) A violation of this section or any rules and regulations adopted
3 under this section is a class B person misdemeanor.

4 (m) In addition to any other penalty provided by law, whenever in
5 the judgment of the secretary of health and environment any person has
6 engaged, or is about to engage, in any acts or practices which constitute,
7 or will constitute, a violation of this section, or any rule and regulation
8 adopted under the provisions of this section, the secretary shall make
9 application to any court of competent jurisdiction for an order enjoining
10 such acts or practices, and upon a showing by the secretary that such
11 person has engaged, or is about to engage, in any such acts or practices,
12 an injunction, restraining order or such other order as may be appropriate
13 shall be granted by such court without bond.

14 Sec. 2. This act shall take effect and be in force from and after its
15 publication in the statute book.

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