

## HOUSE BILL No. 2800

By Committee on Health and Human Services

2-1

---

9 AN ACT concerning abortion clinics; providing for regulation, licensing  
10 and standards for the operation thereof; providing penalties for viola-  
11 tions and authorizing injunctive actions.  
12

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

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

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

16 (2) "Abortion clinic" means a facility, other than an accredited hos-  
17 pital, in which five or more first trimester surgical abortions in any month  
18 or any second or third trimester abortions are performed.

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

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

22 (5) "Gestational age" shall have the meaning ascribed to such term  
23 under K.S.A. 65-6701 and amendments thereto.

24 (6) "Viable" shall have the meaning ascribed to such term under  
25 K.S.A. 65-6701 and amendments thereto.

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

29 (1) Adequate private space that is specifically designated for inter-  
30 viewing, counseling and medical evaluations.

31 (2) Dressing rooms for staff and patients.

32 (3) Appropriate lavatory areas.

33 (4) Areas for preprocedure hand washing.

34 (5) Private procedure rooms.

35 (6) Adequate lighting and ventilation for abortion procedures.

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

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

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

41 (10) Areas for cleaning and sterilizing instruments.

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

- 1 (12) The display in the abortion clinic, in a place that is conspicuous  
2 to all patients, of the clinic's current license issued by the department.
- 3 (c) The secretary shall adopt rules and regulations to prescribe abor-  
4 tion clinic supplies and equipment standards, including supplies and  
5 equipment that are required to be immediately available for use or in an  
6 emergency. At a minimum these rules and regulations shall:
- 7 (1) Prescribe required equipment and supplies, including medica-  
8 tions, required for the conduct, in an appropriate fashion, of any abortion  
9 procedure that the medical staff of the clinic anticipates performing and  
10 for monitoring the progress of each patient throughout the procedure  
11 and recovery period.
- 12 (2) Require that the number or amount of equipment and supplies  
13 at the clinic is adequate at all times to assure sufficient quantities of clean  
14 and sterilized durable equipment and supplies to meet the needs of each  
15 patient.
- 16 (3) Prescribe required equipment, supplies and medications that shall  
17 be available and ready for immediate use in an emergency and require-  
18 ments for written protocols and procedures to be followed by staff in an  
19 emergency, such as the loss of electrical power.
- 20 (4) Prescribe required equipment and supplies for required labora-  
21 tory tests and requirements for protocols to calibrate and maintain lab-  
22 oratory equipment at the abortion clinic or operated by clinic staff.
- 23 (5) Require ultrasound equipment in those facilities that provide  
24 abortions after 12 weeks gestational age of the fetus.
- 25 (6) Require that all equipment is safe for the patient and the staff,  
26 meets applicable federal standards and is checked annually to ensure  
27 safety and appropriate calibration.
- 28 (d) The secretary shall adopt rules and regulations relating to abortion  
29 clinic personnel. At a minimum these rules and regulations shall require  
30 that:
- 31 (1) The abortion clinic designate a medical director of the abortion  
32 clinic who is licensed to practice medicine and surgery in Kansas.
- 33 (2) Physicians performing surgery in an abortion clinic are licensed  
34 to practice medicine and surgery in Kansas, demonstrate competence in  
35 the procedure involved and are acceptable to the medical director of the  
36 abortion clinic.
- 37 (3) A physician with admitting privileges at an accredited hospital in  
38 this state is available.
- 39 (4) Another individual is present in the room during a pelvic exami-  
40 nation or during the abortion procedure and if the physician is male then  
41 the other individual shall be female.
- 42 (5) A registered nurse, nurse practitioner, licensed practical nurse or  
43 physician assistant is present and remains at the clinic when abortions are

- 1 performed to provide postoperative monitoring and care until each pa-  
2 tient who had an abortion that day is discharged.
- 3 (6) Surgical assistants receive training in the specific responsibilities  
4 of the services the surgical assistants provide.
- 5 (7) Volunteers receive training in the specific responsibilities of the  
6 services the volunteers provide, including counseling and patient advoca-  
7 cy as provided in the rules and regulations adopted by the director for  
8 different types of volunteers based on their responsibilities.
- 9 (e) The secretary shall adopt rules and regulations relating to the  
10 medical screening and evaluation of each abortion clinic patient. At a  
11 minimum these rules and regulations shall require:
- 12 (1) A medical history including the following:
- 13 (A) Reported allergies to medications, antiseptic solutions or latex.  
14 (B) Obstetric and gynecologic history.  
15 (C) Past surgeries.
- 16 (2) A physical examination including a bimanual examination esti-  
17 mating uterine size and palpation of the adnexa.
- 18 (3) The appropriate laboratory tests including:
- 19 (A) For an abortion in which an ultrasound examination is not per-  
20 formed before the abortion procedure, urine or blood tests for pregnancy  
21 performed before the abortion procedure.  
22 (B) A test for anemia as indicated.  
23 (C) Rh typing, unless reliable written documentation of blood type is  
24 available.  
25 (D) Other tests as indicated from the physical examination.
- 26 (4) An ultrasound evaluation for all patients who elect to have an  
27 abortion after 12 weeks gestational age of the fetus. The rules shall require  
28 that if a person who is not a physician performs an ultrasound examina-  
29 tion, that person shall have documented evidence that the person com-  
30 pleted a course in the operation of ultrasound equipment as prescribed  
31 in rules and regulations. The physician or other health care professional  
32 shall review, at the request of the patient, the ultrasound evaluation re-  
33 sults with the patient before the abortion procedure is performed, in-  
34 cluding the probable gestational age of the fetus.
- 35 (5) That the physician is responsible for estimating the gestational  
36 age of the fetus based on the ultrasound examination and obstetric stan-  
37 dards in keeping with established standards of care regarding the esti-  
38 mation of fetal age as defined in rules and regulations and shall verify the  
39 estimate in the patient's medical history. The physician shall keep original  
40 prints of each ultrasound examination of a patient in the patient's medical  
41 history file.
- 42 (f) The secretary shall adopt rules and regulations relating to the  
43 abortion procedure. At a minimum these rules and regulations shall

1 require:

- 2 (1) That medical personnel is available to all patients throughout the  
3 abortion procedure.
- 4 (2) Standards for the safe conduct of abortion procedures that con-  
5 form to obstetric standards in keeping with established standards of care  
6 regarding the estimation of fetal age as defined in rules and regulations.
- 7 (3) Appropriate use of local anesthesia, analgesia and sedation if or-  
8 dered by the physician.
- 9 (4) The use of appropriate precautions, such as the establishment of  
10 intravenous access at least for patients undergoing second or third tri-  
11 mester abortions.
- 12 (5) The use of appropriate monitoring of the vital signs and other  
13 defined signs and markers of the patient's status throughout the abortion  
14 procedure and during the recovery period until the patient's condition is  
15 deemed to be stable in the recovery room.
- 16 (g) The secretary shall adopt rules and regulations that prescribe min-  
17 imum recovery room standards. At a minimum these rules and regulations  
18 shall require that:
- 19 (1) Immediate postprocedure care consists of observation in a super-  
20 vised recovery room for as long as the patient's condition warrants.
- 21 (2) The clinic arrange hospitalization if any complication beyond the  
22 management capability of the staff occurs or is suspected.
- 23 (3) A licensed health professional who is trained in the management  
24 of the recovery area and is capable of providing basic cardiopulmonary  
25 resuscitation and related emergency procedures remains on the premises  
26 of the abortion clinic until all patients are discharged.
- 27 (4) A physician or a nurse who is advanced cardiovascular life support  
28 certified shall remain on the premises of the abortion clinic until all pa-  
29 tients are discharged and to facilitate the transfer of emergency cases if  
30 hospitalization of the patient or viable fetus is necessary. A physician or  
31 nurse shall be readily accessible and available until the last patient is  
32 discharged.
- 33 (5) A physician or trained staff member discusses Rho(d) immune  
34 globulin with each patient for whom it is indicated and assures it is offered  
35 to the patient in the immediate postoperative period or that it will be  
36 available to her within 72 hours after completion of the abortion proce-  
37 dure. If the patient refuses, a refusal form approved by the department  
38 shall be signed by the patient and a witness and included in the medical  
39 record.
- 40 (6) Written instructions with regard to postabortion coitus, signs of  
41 possible problems and general aftercare are given to each patient. Each  
42 patient shall have specific instructions regarding access to medical care  
43 for complications, including a telephone number to call for medical

1 emergencies.

2 (7) There is a specified minimum length of time that a patient re-  
3 mains in the recovery room by type of abortion procedure and gestational  
4 age of the fetus.

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

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

12 (h) The secretary shall adopt rules and regulations that prescribe  
13 standards for follow-up visits. At a minimum these rules and regulations  
14 shall require that:

15 (1) A postabortion medical visit is offered and, if requested, sched-  
16 uled within four weeks after the abortion, including a medical examina-  
17 tion and a review of the results of all laboratory tests.

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

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

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

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

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

37 (j) (1) The secretary shall adopt rules and regulations requiring each  
38 abortion clinic to establish and maintain an internal risk management  
39 program which, at a minimum, shall consist of: (A) A system for investi-  
40 gation and analysis of the frequency and causes of reportable incidents  
41 within the clinic; (B) measures to minimize the occurrence of reportable  
42 incidents and the resulting injuries within the clinic; and (C) a reporting  
43 system based upon the duty of all health care providers staffing the clinic

1 and all agents and employees of the clinic directly involved in the delivery  
2 of health care services to report reportable incidents to the chief of the  
3 medical staff, chief administrative officer or risk manager of the clinic.

4 (2) As used in this subsection (j), “reportable incident” means an act  
5 by a health care provider which: (A) Is or may be below the applicable  
6 standard of care and has a reasonable probability of causing injury to a  
7 patient; or (B) may be grounds for disciplinary action by the appropriate  
8 licensing agency.

9 (k) The secretary shall make or cause to be made such inspections  
10 and investigations of abortion clinics at such intervals as the secretary  
11 determines necessary to protect the public health and safety and to im-  
12 plement and enforce the provisions of this act and rules and regulations  
13 adopted hereunder. For that purpose, authorized agents of the secretary  
14 shall have access to an abortion clinic during reasonable business hours.

15 (l) Information received by the secretary through filed reports, in-  
16 spections or as otherwise authorized under this act shall not be disclosed  
17 publicly in such manner as to identify individuals. Under no circum-  
18 stances shall patient medical or other identifying information be made  
19 available to the public, and such information shall always be treated by  
20 the department as confidential.

21 (m) (1) No person shall operate an abortion clinic in this state unless  
22 such clinic holds a currently valid license as an abortion clinic under this  
23 act. Each such clinic shall be required annually to obtain a license from  
24 the department. The secretary shall adopt rules and regulations providing  
25 for the issuance of such licenses. At a minimum such rules and regulations  
26 shall require compliance with the standards adopted pursuant to this act.  
27 The secretary shall establish by rules and regulations the fee for such  
28 licenses in the amount required to cover costs of implementation and  
29 enforcement of this act.

30 (2) The department shall deny, suspend or revoke a license in any  
31 case in which it finds that there has been a substantial failure to comply  
32 with the requirements established under this act and rules and regulations  
33 adopted pursuant thereto, a failure to report any information required to  
34 be reported under subsections (i) and (j) or a failure to maintain a risk  
35 management program as required under subsection (j), after notice and  
36 an opportunity for hearing to the applicant or licensee in accordance with  
37 the provisions of the Kansas administrative procedure act.

38 (n) 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. The secretary peri-  
41 odically shall review and update current practice and technology stan-  
42 dards under this act and based on current practice or technology adopt  
43 by rules and regulations alternative practice or technology standards

1 found by the secretary to be as effective as those enumerated in this act.  
2 (o) The provisions of this act and the rules and regulations adopted  
3 pursuant thereto shall be in addition to any other laws and rules and  
4 regulations which are applicable to facilities defined as abortion clinics  
5 under this section.  
6 (p) In addition to any other penalty provided by law, whenever in the  
7 judgment of the secretary of health and environment any person has en-  
8 gaged, or is about to engage, in any acts or practices which constitute, or  
9 will constitute, a violation of this section, or any rules and regulations  
10 adopted under the provisions of this section, the secretary shall make  
11 application to any court of competent jurisdiction for an order enjoining  
12 such acts or practices, and upon a showing by the secretary that such  
13 person has engaged, or is about to engage, in any such acts or practices,  
14 an injunction, restraining order or such other order as may be appropriate  
15 shall be granted by such court without bond.  
16 Sec. 2. This act shall take effect and be in force from and after its  
17 publication in the statute book.