

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 15-0544.01 Michael Dohr x4347

**HOUSE BILL 15-1128**

---

**HOUSE SPONSORSHIP**

**Neville P.**, Humphrey, Saine, Everett, Joshi, Nordberg, Ransom, Van Winkle

**SENATE SPONSORSHIP**

**Neville T.**, Lundberg, Woods, Baumgardner, Marble

---

**House Committees**

Health, Insurance, & Environment  
Appropriations

**Senate Committees**

---

**A BILL FOR AN ACT**

101      **CONCERNING THE ADOPTION OF THE "WOMEN'S HEALTH PROTECTION**  
102      **ACT".**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill requires all abortion clinics to be licensed by the department of public health and environment (department). Licensure is valid for one year. Prior to licensure or relicensure, the department shall conduct an on-site inspection of the abortion clinic. The bill requires the department to promulgate rules regarding:

!      The abortion clinic's physical facilities;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*



1 (b) "THE MEDICAL, EMOTIONAL, AND PSYCHOLOGICAL  
2 CONSEQUENCES OF AN ABORTION ARE SERIOUS AND CAN BE LASTING ...",  
3 AS STATED BY THE UNITED STATES SUPREME COURT IN *H.L. v. MATHESON*,  
4 450 U.S. 398, 411 (1981);

5 (c) ABORTION IS AN INVASIVE, SURGICAL PROCEDURE THAT CAN  
6 LEAD TO NUMEROUS AND SERIOUS SHORT- AND LONG-TERM MEDICAL  
7 COMPLICATIONS. POTENTIAL COMPLICATIONS FOR ABORTION INCLUDE,  
8 AMONG OTHERS, BLEEDING, HEMORRHAGE, INFECTION, UTERINE  
9 PERFORATION, UTERINE SCARRING, BLOOD CLOTS, CERVICAL TEARS,  
10 INCOMPLETE ABORTION, FAILURE TO TERMINATE THE PREGNANCY, FREE  
11 FLUID IN THE ABDOMEN, ACUTE ABDOMEN, ORGAN DAMAGE, MISSED  
12 ECTOPIC PREGNANCIES, CARDIAC ARREST, SEPSIS, RESPIRATORY ARREST,  
13 REACTIONS TO ANESTHESIA, AN INCREASED RISK OF BREAST CANCER,  
14 FERTILITY PROBLEMS, EMOTIONAL PROBLEMS, AND EVEN DEATH.

15 (d) THE RISKS FOR SECOND-TRIMESTER ABORTIONS ARE GREATER  
16 THAN FOR FIRST-TRIMESTER ABORTIONS. THE RISK OF HEMORRHAGE, IN  
17 PARTICULAR, IS GREATER, AND THE RESULTING COMPLICATIONS MAY  
18 REQUIRE A HYSTERECTOMY, OTHER REPARATIVE SURGERY, OR A BLOOD  
19 TRANSFUSION.

20 (e) COLORADO HAS A LEGITIMATE CONCERN FOR THE PUBLIC'S  
21 HEALTH AND SAFETY. *WILLIAMSON v. LEE OPTICAL*, 348 U.S. 483, 486  
22 (1985);

23 (f) COLORADO "HAS LEGITIMATE INTERESTS FROM THE OUTSET OF  
24 PREGNANCY IN PROTECTING THE HEALTH OF WOMEN", AS STATED BY THE  
25 UNITED STATES SUPREME COURT IN *PLANNED PARENTHOOD OF*  
26 *SOUTHEASTERN PENNSYLVANIA v. CASEY*, 505 U.S. 833, 847 (1992);

27 (g) MORE SPECIFICALLY, COLORADO "HAS A LEGITIMATE CONCERN

1 WITH THE HEALTH OF WOMEN WHO UNDERGO ABORTIONS", AS STATED BY  
2 THE UNITED STATES SUPREME COURT IN *AKRON V. AKRON CTR. FOR*  
3 *REPRODUCTIVE HEALTH, INC.*, 462 U.S. 416, 428-29 (1983); AND

4 (h) THE UNITED STATES SUPREME COURT HAS SPECIFICALLY  
5 ACKNOWLEDGED THAT A STATE HAS "A LEGITIMATE INTEREST IN SEEING  
6 TO IT THAT ABORTION, LIKE ANY OTHER MEDICAL PROCEDURE, IS  
7 PERFORMED UNDER CIRCUMSTANCES THAT INSURE MAXIMUM SAFETY FOR  
8 THE PATIENT. THIS INTEREST OBVIOUSLY EXTENDS AT LEAST TO THE  
9 PERFORMING PHYSICIAN AND HIS OR HER STAFF, TO THE FACILITIES  
10 INVOLVED, TO THE AVAILABILITY OF AFTER-CARE, AND TO ADEQUATE  
11 PROVISION FOR ANY COMPLICATION OR EMERGENCY THAT MIGHT ARISE",  
12 AS STATED IN *ROE V. WADE*, 410 U.S. 113, 150 (1973).

13 (2) BASED ON THE FINDINGS IN SUBSECTION (1) OF THIS SECTION,  
14 THE PURPOSES OF THIS ARTICLE ARE TO:

15 (a) REGULATE ABORTION CLINICS CONSISTENT WITH AND TO THE  
16 EXTENT PERMITTED BY THE DECISIONS OF THE UNITED STATES SUPREME  
17 COURT AND OTHER COURTS; AND

18 (b) PROVIDE FOR THE PROTECTION OF PUBLIC HEALTH THROUGH  
19 THE DEVELOPMENT, ESTABLISHMENT, AND ENFORCEMENT OF MEDICALLY  
20 APPROPRIATE STANDARDS OF CARE AND SAFETY IN ABORTION CLINICS.

21 **25-47-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY  
24 INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR  
25 MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE  
26 PREGNANCY OF A WOMAN WITH KNOWLEDGE THAT THE TERMINATION BY  
27 THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD, CAUSE THE DEATH

1 OF THE UNBORN CHILD. SUCH USE, PRESCRIPTION, OR MEANS IS NOT AN  
2 ABORTION IF DONE WITH THE INTENT TO:

3 (a) SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN  
4 CHILD;

5 (b) REMOVE A DEAD UNBORN CHILD CAUSED BY SPONTANEOUS  
6 ABORTION; OR

7 (c) REMOVE AN ECTOPIC PREGNANCY.

8 (2) "ABORTION CLINIC" MEANS A FACILITY, OTHER THAN AN  
9 ACCREDITED HOSPITAL, IN WHICH FIVE OR MORE FIRST-TRIMESTER  
10 ABORTIONS IN ANY MONTH OR ANY SECOND- OR THIRD-TRIMESTER  
11 ABORTIONS ARE PERFORMED.

12 (3) "BORN ALIVE", WITH RESPECT TO A MEMBER OF THE SPECIES  
13 HOMO SAPIENS, MEANS THE COMPLETE EXPULSION OR EXTRACTION FROM  
14 HIS OR HER MOTHER OF THAT MEMBER, AT ANY STAGE OF DEVELOPMENT,  
15 WHO, AFTER SUCH EXPULSION OR EXTRACTION, BREATHEES OR HAS A  
16 BEATING HEART, PULSATION OF THE UMBILICAL CORD, OR DEFINITE  
17 MOVEMENT OF VOLUNTARY MUSCLES, REGARDLESS OF WHETHER THE  
18 UMBILICAL CORD HAS BEEN CUT AND REGARDLESS OF WHETHER THE  
19 EXPULSION OR EXTRACTION OCCURS AS A RESULT OF NATURAL OR  
20 INDUCED LABOR, CESAREAN SECTION, OR INDUCED ABORTION.

21 (4) "CONCEPTION" MEANS THE FUSION OF THE HUMAN  
22 SPERMATOZOON WITH A HUMAN OVUM.

23 (5) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH  
24 AND ENVIRONMENT.

25 (6) "DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE  
26 DEPARTMENT.

27 (7) "FERTILIZATION" MEANS THE FUSION OF THE HUMAN

1 SPERMATOZOON WITH A HUMAN OVUM.

2 (8) "GESTATION" MEANS THE TIME THAT HAS ELAPSED SINCE THE  
3 FIRST DAY OF THE WOMAN'S LAST MENSTRUAL PERIOD.

4 (9) "LICENSEE" MEANS AN INDIVIDUAL, A PARTNERSHIP, AN  
5 ASSOCIATION, A LIMITED LIABILITY COMPANY, OR A CORPORATION  
6 LICENSED TO OPERATE AN ABORTION CLINIC.

7 (10) "PHYSICIAN" MEANS A PERSON LICENSED TO PRACTICE  
8 MEDICINE IN THE STATE OF COLORADO. THIS TERM INCLUDES MEDICAL  
9 DOCTORS AND DOCTORS OF OSTEOPATHY.

10 (11) "UNBORN CHILD" MEANS THE OFFSPRING OF HUMAN BEINGS  
11 FROM CONCEPTION UNTIL BIRTH.

12 **25-47-104. License requirements - fees.** (1) BEGINNING ON  
13 JANUARY 1, 2016, ALL ABORTION CLINICS MUST BE LICENSED BY THE  
14 DEPARTMENT. ANY EXISTING ABORTION CLINIC SHALL APPLY FOR  
15 LICENSURE WITHIN NINETY DAYS.

16 (2) THE DEPARTMENT SHALL PROVIDE APPLICATION FORMS THAT  
17 INCLUDE REASONABLE REQUIREMENTS DETERMINED BY THE DEPARTMENT,  
18 INCLUDING A REQUIREMENT OF AFFIRMATIVE EVIDENCE THAT THE  
19 ABORTION CLINIC CAN COMPLY WITH THE REASONABLE REQUIREMENTS  
20 STATED IN THE APPLICATION AND RULES PROMULGATED PURSUANT TO  
21 THIS ARTICLE. IF THE DEPARTMENT REQUIRES ADDITIONAL INFORMATION,  
22 THE APPLICANT SHALL SUPPLY THE INFORMATION ON SUPPLEMENTAL  
23 FORMS AS NEEDED.

24 (3) FOLLOWING RECEIPT OF AN APPLICATION FOR LICENSE, THE  
25 DEPARTMENT SHALL ISSUE A LICENSE IF THE APPLICANT AND THE FACILITY  
26 MEET THE REQUIREMENTS ESTABLISHED BY THIS ARTICLE AND COMPLY  
27 WITH RULES PROMULGATED PURSUANT TO THIS ARTICLE. THE LICENSE IS

1 VALID FOR A PERIOD OF ONE YEAR.

2 (4) THE DEPARTMENT MAY ISSUE A TEMPORARY OR PROVISIONAL  
3 LICENSE TO AN ABORTION CLINIC FOR A PERIOD OF SIX MONTHS IN CASES  
4 IN WHICH SUFFICIENT COMPLIANCE WITH MINIMUM STANDARDS AND RULES  
5 REQUIRE AN EXTENSION OF TIME IF DISAPPROVAL HAS NOT BEEN RECEIVED  
6 FROM ANY OTHER STATE OR LOCAL AGENCY OTHERWISE AUTHORIZED TO  
7 INSPECT SUCH FACILITY. THE FAILURE TO COMPLY MUST NOT BE  
8 DETRIMENTAL TO THE HEALTH AND SAFETY OF THE PUBLIC.

9 (5) A LICENSE APPLIES ONLY TO THE LOCATION AND LICENSEE  
10 STATED ON THE APPLICATION, AND SUCH LICENSE, ONCE ISSUED, SHALL  
11 NOT BE TRANSFERABLE FROM ONE PLACE TO ANOTHER OR FROM ONE  
12 LICENSEE TO ANOTHER. IF THE LOCATION OF THE FACILITY CHANGES, THE  
13 LICENSE IS AUTOMATICALLY REVOKED. A NEW APPLICATION FORM MUST  
14 BE COMPLETED PRIOR TO ALL LICENSE RENEWALS.

15 (6) AN APPLICATION FOR A LICENSE OR RENEWAL TO OPERATE AN  
16 ABORTION CLINIC MUST BE ACCOMPANIED BY A FEE OF SIX THOUSAND SIX  
17 HUNDRED DOLLARS, WHICH IS LEVIED AS THE LICENSE FEE FOR OPERATION  
18 OF AN ABORTION CLINIC FOR A PERIOD OF ONE YEAR. THE RENEWAL FEE IS  
19 ONE THOUSAND FOUR HUNDRED AND FORTY DOLLARS.

20 (7) EACH LICENSE ISSUED EXPIRES ONE YEAR AFTER THE DATE OF  
21 ISSUANCE UNLESS SOONER REVOKED, MUST BE ON A FORM PRESCRIBED BY  
22 THE DEPARTMENT, AND MAY BE RENEWED FROM YEAR TO YEAR UPON  
23 APPLICATION AND PAYMENT OF THE LICENSE FEE.

24 (8) THE DEPARTMENT MAY DENY, SUSPEND, REVOKE, OR REFUSE  
25 TO RENEW A LICENSE IN ANY CASE IN WHICH IT FINDS THAT THERE HAS  
26 BEEN A SUBSTANTIAL FAILURE OF THE APPLICANT OR LICENSEE TO COMPLY  
27 WITH THE REQUIREMENTS OF THIS ARTICLE OR RULES PROMULGATED

1 PURSUANT TO THIS ARTICLE. IN SUCH CASE, THE DEPARTMENT SHALL  
2 NOTIFY THE APPLICANT OR LICENSEE WITHIN THIRTY DAYS OF THE ACTION  
3 SPECIFYING THE REASONS FOR THE ACTION.

4 (9) ANY PERSON, APPLICANT, OR LICENSEE WHO IS AGGRIEVED BY  
5 THE ACTION OF THE DEPARTMENT IN DENYING, SUSPENDING, REVOKING,  
6 OR REFUSING TO RENEW A LICENSE MAY APPEAL THE DEPARTMENT'S  
7 ACTION IN ACCORDANCE WITH SECTION 24-4-106, C.R.S.

8 **25-47-105. Inspections and investigations.** (1) THE  
9 DEPARTMENT SHALL ESTABLISH POLICIES AND PROCEDURES FOR  
10 CONDUCTING PRELICENSURE AND RELICENSURE INSPECTIONS OF ABORTION  
11 CLINICS. PRIOR TO ISSUING OR REISSUING A LICENSE, THE DEPARTMENT  
12 SHALL CONDUCT AN ON-SITE INSPECTION TO ENSURE COMPLIANCE WITH  
13 THE RULES PROMULGATED BY THE DEPARTMENT PURSUANT TO THIS  
14 ARTICLE.

15 (2) THE DEPARTMENT SHALL ALSO ESTABLISH POLICIES AND  
16 PROCEDURES FOR CONDUCTING INSPECTIONS AND INVESTIGATIONS  
17 PURSUANT TO COMPLAINTS RECEIVED BY THE DEPARTMENT AND MADE  
18 AGAINST ANY ABORTION CLINIC. THE DEPARTMENT SHALL RECEIVE,  
19 RECORD, AND TAKE ACTION ON COMPLAINTS IN ACCORDANCE WITH  
20 ESTABLISHED POLICIES AND PROCEDURES.

21 (3) IF THE DEPARTMENT DETERMINES THAT THERE IS REASONABLE  
22 CAUSE TO BELIEVE A LICENSEE, LICENSED ABORTION CLINIC, OR ABORTION  
23 CLINIC THAT IS REQUIRED TO BE LICENSED PURSUANT TO THIS ARTICLE IS  
24 NOT ADHERING TO THE REQUIREMENTS OF THIS ARTICLE, THE RULES  
25 PROMULGATED PURSUANT TO THIS ARTICLE, OR ANY OTHER LAW OR RULE  
26 RELATING TO ABORTION, THE DEPARTMENT AND ANY COUNTY HEALTH  
27 REPRESENTATIVE OR COUNTY OR MUNICIPAL FIRE INSPECTOR, CONSISTENT

1 WITH STANDARD MEDICAL PRACTICES, MAY ENTER THE PREMISES OF THE  
2 LICENSEE, LICENSED ABORTION CLINIC, OR ABORTION CLINIC THAT IS  
3 REQUIRED TO BE LICENSED PURSUANT TO THIS ARTICLE DURING REGULAR  
4 BUSINESS HOURS OF THE LICENSEE OR ABORTION CLINIC TO DETERMINE  
5 COMPLIANCE WITH THIS ARTICLE, RULES PROMULGATED PURSUANT TO  
6 THIS ARTICLE, LOCAL FIRE ORDINANCES OR RULES, AND ANY OTHER LAW  
7 OR RULE RELATING TO ABORTION.

8 (4) AN APPLICATION FOR A LICENSE PURSUANT TO THIS ARTICLE  
9 CONSTITUTES PERMISSION FOR AND COMPLETE ACQUIESCENCE TO AN  
10 ENTRY OR INSPECTION OF THE PREMISES DURING THE PENDENCY OF THE  
11 APPLICATION AND, IF LICENSED, DURING THE TERM OF THE LICENSE.

12 (5) IF AN INSPECTION OR INVESTIGATION CONDUCTED PURSUANT  
13 TO THIS SECTION REVEALS THAT A LICENSEE OR LICENSED ABORTION  
14 CLINIC IS NOT ADHERING TO THE REQUIREMENTS OF THIS ARTICLE, RULES  
15 PROMULGATED PURSUANT TO THIS ARTICLE, LOCAL FIRE ORDINANCES OR  
16 RULES, AND ANY OTHER LAW OR RULE RELATING TO ABORTION, THE  
17 DEPARTMENT MAY TAKE ACTION TO DENY, SUSPEND, REVOKE, OR REFUSE  
18 TO RENEW A LICENSE TO OPERATE AN ABORTION CLINIC.

19 **25-47-106. Minimum state board of health standards, rules,**  
20 **and regulations for abortion clinics.** THE STATE BOARD OF HEALTH  
21 SHALL ESTABLISH MINIMUM STANDARDS AND RULES FOR THE LICENSING  
22 AND OPERATION OF ABORTION CLINICS.

23 **25-47-107. Department rules for abortion clinics.** (1) THE  
24 DEPARTMENT SHALL ADOPT RULES FOR AN ABORTION CLINIC'S PHYSICAL  
25 FACILITIES. AT A MINIMUM, THESE RULES MUST PRESCRIBE STANDARDS  
26 FOR:

27 (a) ADEQUATE PRIVATE SPACE THAT IS SPECIFICALLY DESIGNATED

1 FOR INTERVIEWING, COUNSELING, AND MEDICAL EVALUATIONS;

2 (b) DRESSING ROOMS FOR STAFF AND PATIENTS;

3 (c) APPROPRIATE LAVATORY AREAS;

4 (d) AREAS FOR PRE-PROCEDURE HAND WASHING;

5 (e) PRIVATE PROCEDURE ROOMS;

6 (f) ADEQUATE LIGHTING AND VENTILATION FOR ABORTION

7 PROCEDURES;

8 (g) SURGICAL OR GYNECOLOGIC EXAMINATION TABLES AND OTHER

9 FIXED EQUIPMENT;

10 (h) POST-PROCEDURE RECOVERY ROOMS THAT ARE SUPERVISED,

11 STAFFED, AND EQUIPPED TO MEET THE PATIENTS' NEEDS;

12 (i) EMERGENCY EXITS SUFFICIENT TO ACCOMMODATE A

13 STRETCHER OR GURNEY;

14 (j) AREAS FOR CLEANING AND STERILIZING INSTRUMENTS;

15 (k) ADEQUATE AREAS FOR THE SECURE STORAGE OF MEDICAL

16 RECORDS AND NECESSARY EQUIPMENT AND SUPPLIES; AND

17 (l) REQUIRING THE DISPLAY IN THE ABORTION CLINIC, IN A PLACE

18 THAT IS CONSPICUOUS TO ALL PATIENTS, OF THE CLINIC'S CURRENT

19 LICENSE ISSUED BY THE DEPARTMENT.

20 (2) THE DEPARTMENT SHALL ADOPT RULES TO PRESCRIBE

21 ABORTION CLINIC SUPPLY AND EQUIPMENT STANDARDS, INCLUDING

22 SUPPLIES AND EQUIPMENT THAT ARE REQUIRED TO BE IMMEDIATELY

23 AVAILABLE FOR USE IN AN EMERGENCY. AT A MINIMUM, THESE RULES

24 MUST:

25 (a) PRESCRIBE REQUIRED EQUIPMENT AND SUPPLIES, INCLUDING

26 MEDICATIONS, REQUIRED FOR THE PERFORMANCE, IN AN APPROPRIATE

27 FASHION, OF ANY ABORTION PROCEDURE THAT THE MEDICAL STAFF OF THE

1 ABORTION CLINIC ANTICIPATES PERFORMING AND FOR MONITORING THE  
2 PROGRESS OF EACH PATIENT THROUGHOUT THE PROCEDURE AND  
3 RECOVERY PERIOD;

4 (b) REQUIRE THAT THE NUMBER OR AMOUNT OF EQUIPMENT AND  
5 SUPPLIES AT THE ABORTION CLINIC IS ADEQUATE AT ALL TIMES TO ENSURE  
6 SUFFICIENT QUANTITIES OF CLEAN AND STERILIZED DURABLE EQUIPMENT  
7 AND SUPPLIES TO MEET THE NEEDS OF EACH PATIENT;

8 (c) PRESCRIBE REQUIRED EQUIPMENT, SUPPLIES, AND MEDICATIONS  
9 THAT MUST BE AVAILABLE AND READY FOR IMMEDIATE USE IN AN  
10 EMERGENCY AND REQUIREMENTS FOR WRITTEN PROTOCOLS AND  
11 PROCEDURES TO BE FOLLOWED BY STAFF IN AN EMERGENCY, SUCH AS THE  
12 LOSS OF ELECTRICAL POWER;

13 (d) PRESCRIBE THE MANDATED EQUIPMENT AND SUPPLIES FOR  
14 REQUIRED LABORATORY TESTS AND THE REQUIREMENTS FOR PROTOCOLS  
15 TO MAINTAIN LABORATORY EQUIPMENT AT THE ABORTION CLINIC OR  
16 OPERATED BY CLINIC STAFF;

17 (e) REQUIRE ULTRASOUND EQUIPMENT IN ALL ABORTION CLINICS;  
18 AND

19 (f) REQUIRE THAT ALL EQUIPMENT IS SAFE FOR PATIENTS AND THE  
20 STAFF, MEETS APPLICABLE FEDERAL STANDARDS, AND IS CHECKED  
21 ANNUALLY.

22 (3) THE DEPARTMENT SHALL ADOPT RULES RELATING TO  
23 ABORTION CLINIC PERSONNEL. AT A MINIMUM, THESE RULES SHALL  
24 REQUIRE THAT:

25 (a) THE ABORTION CLINIC DESIGNATE A MEDICAL DIRECTOR WHO  
26 IS LICENSED TO PRACTICE MEDICINE IN THE STATE OF COLORADO;

27 (b) PHYSICIANS PERFORMING ABORTIONS ARE LICENSED TO

1 PRACTICE MEDICINE IN THE STATE OF COLORADO, DEMONSTRATE  
2 COMPETENCE IN THE PROCEDURES INVOLVED, AND ARE ACCEPTABLE TO  
3 THE MEDICAL DIRECTOR OF THE ABORTION CLINIC;

4 (c) AT LEAST ONE PHYSICIAN WITH ADMITTING PRIVILEGES AT AN  
5 ACCREDITED HOSPITAL IN THIS STATE AND WITHIN THIRTY MILES OF THE  
6 LICENSED ABORTION CLINIC BE EMPLOYED AT THE ABORTION CLINIC.  
7 SPECIFICALLY, ON ANY DAY WHEN ANY ABORTION IS PERFORMED IN THE  
8 ABORTION CLINIC, A PHYSICIAN WITH ADMITTING PRIVILEGES AT AN  
9 ACCREDITED HOSPITAL IN THIS STATE WITHIN THIRTY MILES OF THE  
10 ABORTION CLINIC MUST REMAIN ON THE PREMISES OF THE ABORTION  
11 CLINIC TO FACILITATE THE TRANSFER OF EMERGENCY CASES IF  
12 HOSPITALIZATION OF AN ABORTION PATIENT OR A CHILD BORN ALIVE IS  
13 NECESSARY AND UNTIL ALL ABORTION PATIENTS ARE STABLE AND READY  
14 TO LEAVE THE RECOVERY ROOM.

15 (d) SURGICAL ASSISTANTS RECEIVE TRAINING IN COUNSELING,  
16 PATIENT ADVOCACY, AND THE SPECIFIC RESPONSIBILITIES OF THE SERVICES  
17 THE SURGICAL ASSISTANTS PROVIDE AT AN ABORTION CLINIC; AND

18 (e) VOLUNTEERS, IF ANY, RECEIVE TRAINING IN THE SPECIFIC  
19 RESPONSIBILITIES OF THE SERVICES THAT VOLUNTEERS PROVIDE AT AN  
20 ABORTION CLINIC, INCLUDING COUNSELING AND PATIENT ADVOCACY, AND  
21 AS PROVIDED IN THE RULES ADOPTED BY THE DEPARTMENT FOR DIFFERENT  
22 TYPES OF VOLUNTEERS BASED ON THEIR RESPONSIBILITIES.

23 (4) THE DEPARTMENT SHALL ADOPT RULES RELATING TO THE  
24 MEDICAL SCREENING AND EVALUATION OF EACH ABORTION CLINIC  
25 PATIENT. AT A MINIMUM THESE RULES MUST REQUIRE:

26 (a) A MEDICAL HISTORY INCLUDING THE FOLLOWING:

27 (I) REPORTED ALLERGIES TO MEDICATIONS, ANTISEPTIC

1 SOLUTIONS, OR LATEX;

2 (II) OBSTETRIC AND GYNECOLOGIC HISTORY;

3 (III) PAST SURGERIES; AND

4 (IV) ANY MEDICATION THAT THE PATIENT IS CURRENTLY TAKING;

5 (b) A PHYSICAL EXAMINATION, INCLUDING A BIMANUAL

6 EXAMINATION ESTIMATING UTERINE SIZE AND PALPATION OF THE ADNEXA;

7 (c) THE APPROPRIATE PRE-PROCEDURE TESTING, INCLUDING:

8 (I) URINE OR BLOOD TESTS FOR PREGNANCY, IF ORDERED BY A

9 PHYSICIAN;

10 (II) A TEST FOR ANEMIA;

11 (III) RH TYPING, UNLESS RELIABLE WRITTEN DOCUMENTATION OF

12 BLOOD TYPE IS AVAILABLE; AND

13 (IV) OTHER TESTS AS INDICATED FROM THE PHYSICAL

14 EXAMINATION;

15 (d) AN ULTRASOUND EVALUATION FOR ALL PATIENTS WHO ELECT

16 TO HAVE AN ABORTION. THE RULES SHALL REQUIRE THAT IF A PERSON

17 WHO IS NOT A PHYSICIAN PERFORMS AN ULTRASOUND EXAMINATION, THAT

18 PERSON SHALL HAVE DOCUMENTED EVIDENCE THAT HE OR SHE

19 COMPLETED A COURSE OR OTHER ACCEPTABLE TRAINING IN THE

20 OPERATION OF ULTRASOUND EQUIPMENT AS PRESCRIBED IN RULE.

21 (e) THAT THE PHYSICIAN IS RESPONSIBLE FOR ESTIMATING THE

22 GESTATIONAL AGE OF THE UNBORN CHILD BASED ON THE ULTRASOUND

23 EXAMINATION AND OBSTETRIC STANDARDS IN KEEPING WITH ESTABLISHED

24 STANDARDS OF CARE REGARDING THE ESTIMATION OF GESTATIONAL AGE

25 AS DEFINED IN RULE AND SHALL WRITE THE ESTIMATE IN THE PATIENT'S

26 MEDICAL RECORD. THE PHYSICIAN SHALL KEEP ORIGINAL PRINTS OF EACH

27 ULTRASOUND EXAMINATION OF A PATIENT IN THE PATIENT'S MEDICAL

1 RECORD.

2 (5) THE DEPARTMENT SHALL ADOPT RULES RELATING TO THE  
3 ABORTION PROCEDURE. AT A MINIMUM THESE RULES SHALL REQUIRE  
4 THAT:

5 (a) MEDICAL PERSONNEL ARE AVAILABLE TO ALL PATIENTS  
6 THROUGHOUT THE ABORTION PROCEDURE;

7 (b) STANDARDS FOR THE SAFE CONDUCT OF ABORTION  
8 PROCEDURES CONFORM TO OBSTETRIC STANDARDS IN KEEPING WITH  
9 ESTABLISHED STANDARDS OF CARE REGARDING THE ESTIMATION OF  
10 GESTATIONAL AGE AS DEFINED IN RULE;

11 (c) APPROPRIATE USE OF LOCAL ANESTHESIA, ANALGESIA, AND  
12 SEDATION IF ORDERED BY THE PHYSICIAN;

13 (d) THE USE OF APPROPRIATE PRECAUTIONS, SUCH AS THE  
14 ESTABLISHMENT OF INTRAVENOUS ACCESS AT LEAST FOR PATIENTS  
15 UNDERGOING SECOND- OR THIRD-TRIMESTER ABORTIONS; AND

16 (e) THE USE OF APPROPRIATE MONITORING OF THE VITAL SIGNS  
17 AND OTHER DEFINED SIGNS AND MARKERS OF THE PATIENT'S STATUS  
18 THROUGHOUT THE ABORTION PROCEDURE AND DURING THE RECOVERY  
19 PERIOD UNTIL THE PATIENT'S CONDITION IS DEEMED TO BE STABLE IN THE  
20 RECOVERY ROOM.

21 (6) THE DEPARTMENT SHALL ADOPT RULES THAT PRESCRIBE  
22 MINIMUM RECOVERY ROOM STANDARDS FOR THE ABORTION CLINIC. AT A  
23 MINIMUM THESE RULES MUST REQUIRE THAT:

24 (a) IMMEDIATE POST-PROCEDURE CARE CONSISTS OF OBSERVATION  
25 IN A SUPERVISED RECOVERY ROOM FOR AS LONG AS THE PATIENT'S  
26 CONDITION WARRANTS;

27 (b) THE CLINIC ARRANGE HOSPITALIZATION IF ANY COMPLICATION

1 BEYOND THE MANAGEMENT CAPABILITY OF THE STAFF OCCURS OR IS  
2 SUSPECTED;

3 (c) A LICENSED HEALTH CARE PROFESSIONAL WHO IS TRAINED IN  
4 THE MANAGEMENT OF THE RECOVERY AREA AND IS CAPABLE OF  
5 PROVIDING BASIC CARDIOPULMONARY RESUSCITATION AND RELATED  
6 EMERGENCY PROCEDURES ACTIVELY MONITORS PATIENTS IN THE  
7 RECOVERY ROOM;

8 (d) A PHYSICIAN WITH ADMITTING PRIVILEGES AT AN ACCREDITED  
9 HOSPITAL IN THIS STATE AND WITHIN THIRTY MILES OF THE ABORTION  
10 CLINIC REMAINS ON THE PREMISES OF THE ABORTION CLINIC UNTIL ALL  
11 PATIENTS ARE STABLE AND ARE READY TO LEAVE THE RECOVERY ROOM  
12 AND FACILITATES THE TRANSFER OF EMERGENCY CASES IF  
13 HOSPITALIZATION OF THE PATIENT OR A CHILD BORN ALIVE IS NECESSARY.  
14 A PHYSICIAN SHALL SIGN THE DISCHARGE ORDER AND BE READILY  
15 ACCESSIBLE AND AVAILABLE UNTIL THE LAST PATIENT IS DISCHARGED.

16 (e) A PHYSICIAN DISCUSSES RHO(D) IMMUNE GLOBULIN WITH  
17 EACH PATIENT FOR WHOM IT IS INDICATED AND ENSURES IT IS OFFERED TO  
18 THE PATIENT IN THE IMMEDIATE POST-OPERATIVE PERIOD OR THAT IT WILL  
19 BE AVAILABLE TO HER WITHIN SEVENTY-TWO HOURS AFTER COMPLETION  
20 OF THE ABORTION PROCEDURE. IF THE PATIENT REFUSES, A REFUSAL FORM  
21 APPROVED BY THE DEPARTMENT MUST BE SIGNED BY THE PATIENT AND A  
22 WITNESS AND INCLUDED IN THE PATIENT MEDICAL RECORD.

23 (f) WRITTEN INSTRUCTIONS WITH REGARD TO POST-ABORTION  
24 COITUS, SIGNS OF POSSIBLE COMPLICATIONS AND PROBLEMS, AND GENERAL  
25 AFTER-CARE ARE GIVEN TO EACH PATIENT. EACH PATIENT MUST HAVE  
26 SPECIFIC INSTRUCTIONS REGARDING ACCESS TO MEDICAL CARE FOR  
27 COMPLICATIONS, INCLUDING A TELEPHONE NUMBER TO CALL FOR MEDICAL

1 EMERGENCIES.

2 (g) THERE IS A SPECIFIED MINIMUM LENGTH OF TIME THAT A  
3 PATIENT REMAINS IN THE RECOVERY ROOM BY TYPE OF ABORTION  
4 PROCEDURE AND DURATION OF GESTATION;

5 (h) THE PHYSICIAN ENSURES THAT A LICENSED HEALTH CARE  
6 PROFESSIONAL FROM THE ABORTION CLINIC MAKES A GOOD-FAITH EFFORT  
7 TO CONTACT THE PATIENT BY TELEPHONE, WITH THE PATIENT'S CONSENT,  
8 WITHIN TWENTY-FOUR HOURS AFTER SURGERY TO ASSESS THE PATIENT'S  
9 RECOVERY; AND

10 (i) EQUIPMENT AND SERVICES ARE LOCATED IN THE RECOVERY  
11 ROOM TO PROVIDE APPROPRIATE EMERGENCY RESUSCITATIVE AND LIFE  
12 SUPPORT PROCEDURES PENDING THE TRANSFER OF THE PATIENT OR A  
13 CHILD BORN ALIVE TO THE HOSPITAL.

14 (7) THE DEPARTMENT SHALL ADOPT RULES THAT PRESCRIBE  
15 STANDARDS FOR FOLLOW-UP CARE FOR ABORTION PATIENTS. AT A  
16 MINIMUM, THESE RULES MUST REQUIRE THAT:

17 (a) A POST-ABORTION MEDICAL VISIT IS OFFERED AND, IF  
18 REQUESTED, SCHEDULED FOR TWO TO THREE WEEKS AFTER THE ABORTION  
19 PROCEDURE, INCLUDING A MEDICAL EXAMINATION AND A REVIEW OF THE  
20 RESULTS OF ALL LABORATORY TESTS; AND

21 (b) A URINE OR BLOOD TEST FOR PREGNANCY IS OBTAINED AT THE  
22 TIME OF THE FOLLOW-UP VISIT TO RULE OUT CONTINUING PREGNANCY. IF  
23 A CONTINUING PREGNANCY IS SUSPECTED, THE PATIENT MUST BE  
24 APPROPRIATELY EVALUATED, AND A PHYSICIAN WHO PERFORMS  
25 ABORTIONS MUST BE CONSULTED.

26 (8) THE DEPARTMENT SHALL ADOPT RULES TO PRESCRIBE MINIMUM  
27 ABORTION CLINIC INCIDENT REPORTING. AT A MINIMUM, THESE RULES

1 MUST REQUIRE THAT:

2 (a) THE ABORTION CLINIC RECORDS EACH INCIDENT RESULTING IN  
3 A PATIENT'S OR A BORN-ALIVE CHILD'S INJURY OCCURRING AT AN  
4 ABORTION CLINIC AND SHALL REPORT THESE INCIDENTS IN WRITING TO THE  
5 DEPARTMENT WITHIN TEN DAYS AFTER THE INCIDENT;

6 (b) IF A PATIENT'S DEATH OCCURS, OTHER THAN THE DEATH OF AN  
7 UNBORN CHILD PROPERLY REPORTED PURSUANT TO LAW, THE ABORTION  
8 CLINIC REPORTS IT TO THE DEPARTMENT NOT LATER THAN THE NEXT  
9 DEPARTMENT WORK DAY; AND

10 (c) INCIDENT REPORTS ARE FILED WITH THE DEPARTMENT AND  
11 APPROPRIATE PROFESSIONAL REGULATORY BOARDS.

12 (9) THE DEPARTMENT SHALL NOT RELEASE PERSONALLY  
13 IDENTIFIABLE PATIENT OR PHYSICIAN INFORMATION.

14 (10) THE RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS  
15 ARTICLE DO NOT LIMIT THE ABILITY OF A PHYSICIAN OR OTHER HEALTH  
16 CARE PROFESSIONAL TO ADVISE A PATIENT ON ANY HEALTH ISSUE.

17 (11) THE PROVISIONS OF THIS ARTICLE AND THE RULES AND  
18 REGULATIONS ADOPTED PURSUANT HERETO SHALL BE IN ADDITION TO ANY  
19 OTHER LAWS OR RULES APPLICABLE TO ABORTION CLINICS.

20 **25-47-108. Criminal penalties.** (1) A PERSON WHO OPERATES AN  
21 ABORTION CLINIC WITHOUT A VALID LICENSE ISSUED BY THE DEPARTMENT  
22 IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL  
23 BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE  
24 THAN FIVE HUNDRED DOLLARS.

25 (2) A PERSON WHO RECKLESSLY VIOLATES THIS ARTICLE OR ANY  
26 RULE ADOPTED PURSUANT TO THIS ARTICLE IS GUILTY OF A MISDEMEANOR  
27 AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT

1 LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

2 **25-47-109. Civil penalties and fines.** (1) ANY VIOLATION OF THIS  
3 ARTICLE OR ANY RULES ADOPTED PURSUANT TO THIS ARTICLE MAY BE  
4 SUBJECT TO A CIVIL PENALTY OR FINE UP TO FIVE THOUSAND DOLLARS  
5 IMPOSED BY THE DEPARTMENT.

6 (2) EACH DAY OF VIOLATION CONSTITUTES A SEPARATE VIOLATION  
7 FOR PURPOSES OF ASSESSING CIVIL PENALTIES OR FINES.

8 (3) IN DECIDING WHETHER AND TO WHAT EXTENT TO IMPOSE FINES,  
9 THE DEPARTMENT SHALL CONSIDER THE FOLLOWING FACTORS:

10 (a) THE GRAVITY OF THE VIOLATION, INCLUDING THE PROBABILITY  
11 THAT DEATH OR SERIOUS PHYSICAL HARM TO A PATIENT OR INDIVIDUAL  
12 WILL RESULT OR HAS RESULTED;

13 (b) THE SIZE OF THE POPULATION AT RISK AS A CONSEQUENCE OF  
14 THE VIOLATION;

15 (c) THE SEVERITY AND SCOPE OF THE ACTUAL OR POTENTIAL  
16 HARM;

17 (d) THE EXTENT TO WHICH THE PROVISIONS OF THE APPLICABLE  
18 STATUTES OR RULES WERE VIOLATED;

19 (e) ANY INDICATIONS OF GOOD FAITH EXERCISED BY THE LICENSEE;

20 (f) THE DURATION, FREQUENCY, AND RELEVANCE OF ANY  
21 PREVIOUS VIOLATIONS COMMITTED BY THE LICENSEE; AND

22 (g) THE FINANCIAL BENEFIT TO THE LICENSEE OF COMMITTING OR  
23 CONTINUING THE VIOLATION.

24 (4) BOTH THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY  
25 FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED MAY INSTITUTE A  
26 LEGAL ACTION TO ENFORCE COLLECTION OF CIVIL PENALTIES OR FINES.

27 **25-47-110. Injunctive relief.** IN ADDITION TO ANY OTHER

1 PENALTY PROVIDED BY LAW, WHENEVER, IN THE JUDGMENT OF THE  
2 DIRECTOR, ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY  
3 ACTS OR PRACTICES WHICH CONSTITUTE OR WILL CONSTITUTE A  
4 VIOLATION OF THIS ARTICLE OR ANY RULE ADOPTED UNDER THE  
5 PROVISIONS OF THIS ARTICLE, THE DIRECTOR SHALL MAKE APPLICATION TO  
6 ANY COURT OF COMPETENT JURISDICTION FOR AN ORDER ENJOINING SUCH  
7 ACTS AND PRACTICES, AND UPON A SHOWING BY THE DIRECTOR THAT SUCH  
8 PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY SUCH ACTS OR  
9 PRACTICES, AN INJUNCTION, RESTRAINING ORDER, OR SUCH OTHER ORDER  
10 AS MAY BE APPROPRIATE SHALL BE GRANTED BY SUCH COURT WITHOUT  
11 BOND.

12 **25-47-111. Construction.** (1) NOTHING IN THIS ARTICLE SHALL  
13 BE CONSTRUED AS CREATING OR RECOGNIZING A RIGHT TO ABORTION.

14 (2) IT IS NOT THE INTENTION OF THIS ARTICLE TO MAKE LAWFUL AN  
15 ABORTION THAT IS CURRENTLY UNLAWFUL.

16 **25-47-112. Right of intervention.** THE GENERAL ASSEMBLY, BY  
17 JOINT RESOLUTION, MAY APPOINT ONE OR MORE OF ITS MEMBERS, WHO  
18 SPONSORED OR COSPONSORED THE BILL THAT CREATED THIS ARTICLE IN  
19 HIS OR HER OFFICIAL CAPACITY, TO INTERVENE AS A MATTER OF RIGHT IN  
20 ANY CASE IN WHICH THE CONSTITUTIONALITY OF THIS ARTICLE OR ANY  
21 PORTION THEREOF IS CHALLENGED.

22 **25-47-113. Severability.** ANY PROVISION OF THIS ARTICLE HELD  
23 TO BE INVALID OR UNENFORCEABLE BY ITS TERMS, OR AS APPLIED TO ANY  
24 PERSON OR CIRCUMSTANCE, MUST BE CONSTRUED SO AS TO GIVE SUCH  
25 PROVISION THE MAXIMUM EFFECT PERMITTED BY LAW, UNLESS SUCH  
26 HOLDING IS ONE OF UTTER INVALIDITY OR UNENFORCEABILITY, IN WHICH  
27 EVENT SUCH PROVISION IS DEEMED SEVERABLE HEREFROM AND SHALL NOT

1 AFFECT THE REMAINDER HEREOF OR THE APPLICATION OF SUCH PROVISION  
2 TO OTHER PERSONS NOT SIMILARLY SITUATED OR TO OTHER, DISSIMILAR  
3 CIRCUMSTANCES.

4 **SECTION 2. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.