

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0219.01 Michael Dohr x4347

HOUSE BILL 16-1203

HOUSE SPONSORSHIP

Neville P., Humphrey, Everett, Nordberg, Ransom, Buck, Joshi, Saine, Lundeen, Windholz, Leonard, Becker J., Conti, Landgraf, Navarro, Van Winkle

SENATE SPONSORSHIP

(None),

House Committees

Health, Insurance, & Environment

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 attorney general. Licensure is valid for one year. Prior to licensure or relicensure, the attorney general shall conduct an on-site inspection of the abortion clinic. The bill requires the attorney general 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.

- ! The abortion clinic's supply and equipment standards;
- ! The abortion clinic's personnel, including requiring that the clinic employ at least one doctor with admitting privileges at a hospital within the state within 30 miles of the abortion clinic;
- ! Medical screening and evaluation of each patient;
- ! The abortion procedure;
- ! Minimum recovery room standards;
- ! Follow-up care for abortion patients; and
- ! Minimum incident reporting.

The bill creates criminal and civil penalties for violations of the requirements of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 7 to article
3 31 of to title 24 as follows:

4 PART 7

5 WOMEN'S HEALTH PROTECTION ACT

6 **24-31-701. Short title.** THE SHORT TITLE OF THIS PART 7 IS THE
7 "WOMEN'S HEALTH PROTECTION ACT".

8 **24-31-702. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 FINDS THAT:

10 (a) THE VAST MAJORITY OF ALL ABORTIONS IN COLORADO ARE
11 PERFORMED IN CLINICS DEVOTED PRIMARILY TO PROVIDING ABORTIONS
12 AND FAMILY PLANNING SERVICES. MOST WOMEN WHO SEEK ABORTIONS AT
13 THESE FACILITIES DO NOT HAVE ANY RELATIONSHIP WITH THE PHYSICIAN
14 WHO PERFORMS THE ABORTION, EITHER BEFORE OR AFTER THE
15 PROCEDURE. THEY DO NOT RETURN TO THE FACILITY FOR POST-SURGICAL
16 CARE. IN MOST INSTANCES, THE WOMAN'S ONLY ACTUAL CONTACT WITH
17 THE ABORTION PROVIDER OCCURS SIMULTANEOUSLY WITH THE ABORTION
18 PROCEDURE, WITH LITTLE OPPORTUNITY TO ASK QUESTIONS ABOUT THE
19 PROCEDURE, POTENTIAL COMPLICATIONS, AND PROPER FOLLOW-UP CARE.

1 (b) SURGICAL ABORTION IS AN INVASIVE SURGICAL PROCEDURE
2 THAT CAN LEAD TO NUMEROUS AND SERIOUS SHORT- AND LONG-TERM
3 MEDICAL COMPLICATIONS.

4 (2) BASED ON THE FINDINGS IN SUBSECTION (1) OF THIS SECTION,
5 THE PURPOSES OF THIS PART 7 ARE TO:

6 (a) REGULATE ABORTION CLINICS CONSISTENT WITH AND TO THE
7 EXTENT PERMITTED BY THE DECISIONS OF THE UNITED STATES SUPREME
8 COURT AND OTHER COURTS; AND

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

12 **24-31-703. Definitions.** AS USED IN THIS PART 7, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY
15 INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR
16 MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE
17 PREGNANCY OF A WOMAN WITH KNOWLEDGE THAT THE TERMINATION BY
18 THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD, CAUSE THE DEATH
19 OF THE UNBORN CHILD. SUCH USE, PRESCRIPTION, OR MEANS IS NOT AN
20 ABORTION IF DONE WITH THE INTENT TO:

21 (a) SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN
22 CHILD;

23 (b) REMOVE A DEAD UNBORN CHILD CAUSED BY SPONTANEOUS
24 ABORTION; OR

25 (c) REMOVE AN ECTOPIC PREGNANCY.

26 (2) "ABORTION CLINIC" MEANS A FACILITY, OTHER THAN AN
27 ACCREDITED HOSPITAL, IN WHICH FIVE OR MORE FIRST-TRIMESTER

1 ABORTIONS IN ANY MONTH OR ANY SECOND- OR THIRD-TRIMESTER
2 ABORTIONS ARE PERFORMED.

3 (3) "BORN ALIVE", WITH RESPECT TO A MEMBER OF THE SPECIES
4 HOMO SAPIENS, MEANS THE COMPLETE EXPULSION OR EXTRACTION FROM
5 HIS OR HER MOTHER OF THAT MEMBER, AT ANY STAGE OF DEVELOPMENT,
6 WHO, AFTER SUCH EXPULSION OR EXTRACTION, BREATHEES OR HAS A
7 BEATING HEART, PULSATION OF THE UMBILICAL CORD, OR DEFINITE
8 MOVEMENT OF VOLUNTARY MUSCLES, REGARDLESS OF WHETHER THE
9 UMBILICAL CORD HAS BEEN CUT AND REGARDLESS OF WHETHER THE
10 EXPULSION OR EXTRACTION OCCURS AS A RESULT OF NATURAL OR
11 INDUCED LABOR, CESAREAN SECTION, OR INDUCED ABORTION.

12 (4) "CONCEPTION" MEANS THE FUSION OF THE HUMAN
13 SPERMATOZOOM WITH A HUMAN OVUM.

14 (5) "FERTILIZATION" MEANS THE FUSION OF THE HUMAN
15 SPERMATOZOOM WITH A HUMAN OVUM.

16 (6) "GESTATION" MEANS THE TIME THAT HAS ELAPSED SINCE THE
17 FIRST DAY OF THE WOMAN'S LAST MENSTRUAL PERIOD.

18 (7) "LICENSEE" MEANS AN INDIVIDUAL, A PARTNERSHIP, AN
19 ASSOCIATION, A LIMITED LIABILITY COMPANY, OR A CORPORATION
20 LICENSED TO OPERATE AN ABORTION CLINIC.

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

24 (9) "UNBORN CHILD" MEANS THE OFFSPRING OF HUMAN BEINGS
25 FROM CONCEPTION UNTIL BIRTH.

26 **24-31-704. License requirements - fees.** (1) BEGINNING ON
27 JANUARY 1, 2017, ALL ABORTION CLINICS MUST BE LICENSED BY THE

1 ATTORNEY GENERAL. ANY EXISTING ABORTION CLINIC SHALL APPLY FOR
2 LICENSURE WITHIN NINETY DAYS AFTER THE ATTORNEY GENERAL BEGINS
3 ACCEPTING APPLICATIONS.

4 (2) THE ATTORNEY GENERAL SHALL PROVIDE APPLICATION FORMS
5 THAT INCLUDE REASONABLE REQUIREMENTS DETERMINED BY THE
6 ATTORNEY GENERAL, INCLUDING A REQUIREMENT OF AFFIRMATIVE
7 EVIDENCE THAT THE ABORTION CLINIC CAN COMPLY WITH THE
8 REASONABLE REQUIREMENTS STATED IN THE APPLICATION AND RULES
9 PROMULGATED PURSUANT TO THIS PART 7. IF THE ATTORNEY GENERAL
10 REQUIRES ADDITIONAL INFORMATION, THE APPLICANT SHALL SUPPLY THE
11 INFORMATION ON SUPPLEMENTAL FORMS AS NEEDED.

12 (3) FOLLOWING RECEIPT OF AN APPLICATION FOR LICENSE, THE
13 ATTORNEY GENERAL SHALL ISSUE A LICENSE IF THE APPLICANT AND THE
14 FACILITY MEET THE REQUIREMENTS ESTABLISHED BY THIS PART 7 AND
15 COMPLY WITH RULES PROMULGATED PURSUANT TO THIS PART 7. THE
16 LICENSE IS VALID FOR A PERIOD OF ONE YEAR.

17 (4) THE ATTORNEY GENERAL MAY ISSUE A TEMPORARY OR
18 PROVISIONAL LICENSE TO AN ABORTION CLINIC FOR A PERIOD OF SIX
19 MONTHS IN CASES IN WHICH SUFFICIENT COMPLIANCE WITH MINIMUM
20 STANDARDS AND RULES REQUIRE AN EXTENSION OF TIME IF DISAPPROVAL
21 HAS NOT BEEN RECEIVED FROM ANY OTHER STATE OR LOCAL AGENCY
22 OTHERWISE AUTHORIZED TO INSPECT SUCH FACILITY. THE FAILURE TO
23 COMPLY MUST NOT BE DETRIMENTAL TO THE HEALTH AND SAFETY OF THE
24 PUBLIC.

25 (5) A LICENSE APPLIES ONLY TO THE LOCATION AND LICENSEE
26 STATED ON THE APPLICATION, AND SUCH LICENSE, ONCE ISSUED, SHALL
27 NOT BE TRANSFERABLE FROM ONE PLACE TO ANOTHER OR FROM ONE

1 LICENSEE TO ANOTHER. IF THE LOCATION OF THE FACILITY CHANGES, THE
2 LICENSE IS AUTOMATICALLY REVOKED. A NEW APPLICATION FORM MUST
3 BE COMPLETED PRIOR TO ALL LICENSE RENEWALS.

4 (6) AN APPLICATION FOR A LICENSE TO OPERATE AN ABORTION
5 CLINIC MUST BE ACCOMPANIED BY A FEE OF SIX THOUSAND SIX HUNDRED
6 DOLLARS, WHICH IS LEVIED AS THE LICENSE FEE FOR OPERATION OF AN
7 ABORTION CLINIC FOR A PERIOD OF ONE YEAR. THE RENEWAL FEE IS ONE
8 THOUSAND FOUR HUNDRED AND FORTY DOLLARS.

9 (7) EACH LICENSE ISSUED EXPIRES ONE YEAR AFTER THE DATE OF
10 ISSUANCE, UNLESS SOONER REVOKED; MUST BE ON A FORM PRESCRIBED BY
11 THE ATTORNEY GENERAL; AND MAY BE RENEWED FROM YEAR TO YEAR
12 UPON APPLICATION AND PAYMENT OF THE RENEWAL FEE.

13 (8) THE ATTORNEY GENERAL MAY DENY, SUSPEND, REVOKE, OR
14 REFUSE TO RENEW A LICENSE IN ANY CASE IN WHICH IT FINDS THAT THERE
15 HAS BEEN A SUBSTANTIAL FAILURE OF THE APPLICANT OR LICENSEE TO
16 COMPLY WITH THE REQUIREMENTS OF THIS PART 7 OR RULES
17 PROMULGATED PURSUANT TO THIS PART 7. IN SUCH CASE, THE ATTORNEY
18 GENERAL SHALL NOTIFY THE APPLICANT OR LICENSEE WITHIN THIRTY
19 DAYS OF THE ACTION SPECIFYING THE REASONS FOR THE ACTION.

20 (9) ANY PERSON, APPLICANT, OR LICENSEE WHO IS AGGRIEVED BY
21 THE ACTION OF THE ATTORNEY GENERAL IN DENYING, SUSPENDING,
22 REVOKING, OR REFUSING TO RENEW A LICENSE MAY APPEAL THE
23 ATTORNEY GENERAL'S ACTION IN ACCORDANCE WITH SECTION 24-4-106.

24 **24-31-705. Inspections and investigations.** (1) THE ATTORNEY
25 GENERAL SHALL APPLY THE SAME POLICIES AND PROCEDURES FOR
26 AMBULATORY SURGICAL CENTERS FOR CONDUCTING PRELICENSURE AND
27 RELICENSURE INSPECTIONS OF ABORTION CLINICS. PRIOR TO ISSUING OR

1 REISSUING A LICENSE, THE ATTORNEY GENERAL SHALL CONDUCT AN
2 ON-SITE INSPECTION TO ENSURE COMPLIANCE WITH THE RULES
3 PROMULGATED BY THE ATTORNEY GENERAL PURSUANT TO THIS PART 7.

4 (2) THE ATTORNEY GENERAL SHALL ALSO ESTABLISH POLICIES AND
5 PROCEDURES FOR CONDUCTING INSPECTIONS AND INVESTIGATIONS
6 PURSUANT TO COMPLAINTS RECEIVED BY THE ATTORNEY GENERAL AND
7 MADE AGAINST ANY ABORTION CLINIC. THE ATTORNEY GENERAL SHALL
8 RECEIVE, RECORD, AND TAKE ACTION ON COMPLAINTS IN ACCORDANCE
9 WITH ESTABLISHED POLICIES AND PROCEDURES.

10 (3) IF THE ATTORNEY GENERAL DETERMINES THAT THERE IS
11 REASONABLE CAUSE TO BELIEVE A LICENSEE, LICENSED ABORTION CLINIC,
12 OR AN ABORTION CLINIC THAT IS REQUIRED TO BE LICENSED PURSUANT TO
13 THIS PART 7 IS NOT ADHERING TO THE REQUIREMENTS OF THIS PART 7, THE
14 RULES PROMULGATED PURSUANT TO THIS PART 7, OR ANY OTHER LAW OR
15 RULE RELATING TO ABORTION, THE ATTORNEY GENERAL AND ANY COUNTY
16 HEALTH REPRESENTATIVE OR COUNTY OR MUNICIPAL FIRE INSPECTOR,
17 CONSISTENT WITH STANDARD MEDICAL PRACTICES, MAY ENTER THE
18 PREMISES OF THE LICENSEE, LICENSED ABORTION CLINIC, OR ABORTION
19 CLINIC THAT IS REQUIRED TO BE LICENSED PURSUANT TO THIS PART 7
20 DURING REGULAR BUSINESS HOURS OF THE LICENSEE OR ABORTION CLINIC
21 WITHOUT PRIOR NOTIFICATION TO DETERMINE COMPLIANCE WITH THIS
22 PART 7, RULES PROMULGATED PURSUANT TO THIS PART 7, LOCAL FIRE
23 ORDINANCES OR RULES, AND ANY OTHER LAW OR RULE RELATING TO
24 ABORTION.

25 (4) AN APPLICATION FOR A LICENSE PURSUANT TO THIS PART 7
26 CONSTITUTES PERMISSION FOR AND COMPLETE ACQUIESCENCE TO AN
27 ENTRY OR INSPECTION OF THE PREMISES DURING THE PENDENCY OF THE

1 APPLICATION AND, IF LICENSED, DURING THE TERM OF THE LICENSE.

2 (5) IF AN INSPECTION OR INVESTIGATION CONDUCTED PURSUANT
3 TO THIS SECTION REVEALS THAT A LICENSEE OR LICENSED ABORTION
4 CLINIC IS NOT ADHERING TO THE REQUIREMENTS OF THIS PART 7, RULES
5 PROMULGATED PURSUANT TO THIS PART 7, LOCAL FIRE ORDINANCES OR
6 RULES, OR ANY OTHER LAW OR RULE RELATING TO ABORTION, THE
7 ATTORNEY GENERAL MAY TAKE ACTION TO DENY, SUSPEND, REVOKE, OR
8 REFUSE TO RENEW A LICENSE TO OPERATE AN ABORTION CLINIC.

9 **24-31-706. Minimum attorney general standards and rules for**
10 **abortion clinics.** THE ATTORNEY GENERAL SHALL APPLY THE SAME
11 MINIMUM STANDARDS AND RULES FOR THE LICENSING AND OPERATION OF
12 ABORTION CLINICS AS REQUIRED BY ANY OTHER SURGICAL CLINIC IN THE
13 STATE OF COLORADO.

14 **24-31-707. Attorney general rules for abortion clinics.** (1) THE
15 ATTORNEY GENERAL SHALL ADOPT RULES FOR AN ABORTION CLINIC'S
16 PHYSICAL FACILITIES. AT A MINIMUM, THESE RULES MUST PRESCRIBE
17 STANDARDS FOR:

18 (a) ADEQUATE PRIVATE SPACE THAT IS SPECIFICALLY DESIGNATED
19 FOR INTERVIEWING, COUNSELING, AND MEDICAL EVALUATIONS;

20 (b) DRESSING ROOMS FOR STAFF AND PATIENTS;

21 (c) APPROPRIATE LAVATORY AREAS;

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

23 (e) PRIVATE PROCEDURE ROOMS;

24 (f) ADEQUATE LIGHTING AND VENTILATION FOR ABORTION
25 PROCEDURES;

26 (g) SURGICAL OR GYNECOLOGIC EXAMINATION TABLES AND OTHER
27 FIXED EQUIPMENT;

1 (h) POST-PROCEDURE RECOVERY ROOMS THAT ARE SUPERVISED,
2 STAFFED, AND EQUIPPED TO MEET THE PATIENTS' NEEDS;

3 (i) EMERGENCY EXITS SUFFICIENT TO ACCOMMODATE A
4 STRETCHER OR GURNEY;

5 (j) AREAS FOR CLEANING AND STERILIZING INSTRUMENTS;

6 (k) ADEQUATE AREAS FOR THE SECURE STORAGE OF MEDICAL
7 RECORDS AND NECESSARY EQUIPMENT AND SUPPLIES; AND

8 (l) REQUIRING THE DISPLAY IN THE ABORTION CLINIC, IN A PLACE
9 THAT IS CONSPICUOUS TO ALL PATIENTS, OF THE CLINIC'S CURRENT
10 LICENSE ISSUED BY THE ATTORNEY GENERAL.

11 (2) THE ATTORNEY GENERAL SHALL ADOPT RULES TO PRESCRIBE
12 AN ABORTION CLINIC'S SUPPLY AND EQUIPMENT STANDARDS, INCLUDING
13 SUPPLIES AND EQUIPMENT THAT ARE REQUIRED TO BE IMMEDIATELY
14 AVAILABLE FOR USE IN AN EMERGENCY. AT A MINIMUM, THESE RULES
15 MUST:

16 (a) PRESCRIBE REQUIRED EQUIPMENT AND SUPPLIES, INCLUDING
17 MEDICATIONS, REQUIRED FOR THE PERFORMANCE, IN AN APPROPRIATE
18 FASHION, OF ANY ABORTION PROCEDURE THAT THE MEDICAL STAFF OF THE
19 ABORTION CLINIC ANTICIPATES PERFORMING AND FOR MONITORING THE
20 PROGRESS OF EACH PATIENT THROUGHOUT THE PROCEDURE AND
21 RECOVERY PERIOD STANDARD CONSISTENT WITH A DILATION AND
22 CURETTAGE PROCEDURE;

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

27 (c) PRESCRIBE REQUIRED EQUIPMENT, SUPPLIES, AND MEDICATIONS

1 THAT MUST BE AVAILABLE AND READY FOR IMMEDIATE USE IN AN
2 EMERGENCY AND REQUIREMENTS FOR WRITTEN PROTOCOLS AND
3 PROCEDURES TO BE FOLLOWED BY STAFF IN AN EMERGENCY, SUCH AS THE
4 LOSS OF ELECTRICAL POWER;

5 (d) PRESCRIBE THE MANDATED EQUIPMENT AND SUPPLIES FOR
6 REQUIRED LABORATORY TESTS AND THE REQUIREMENTS FOR PROTOCOLS
7 TO MAINTAIN LABORATORY EQUIPMENT AT THE ABORTION CLINIC OR
8 OPERATED BY CLINIC STAFF;

9 (e) REQUIRE ULTRASOUND EQUIPMENT IN ALL ABORTION CLINICS;
10 AND

11 (f) REQUIRE THAT ALL EQUIPMENT IS SAFE FOR PATIENTS AND THE
12 STAFF, MEETS APPLICABLE FEDERAL STANDARDS, AND IS CHECKED
13 ANNUALLY.

14 (3) THE ATTORNEY GENERAL SHALL ADOPT RULES RELATING TO
15 ABORTION CLINIC PERSONNEL. AT A MINIMUM, THESE RULES SHALL
16 REQUIRE THAT:

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

19 (b) PHYSICIANS PERFORMING ABORTIONS ARE LICENSED TO
20 PRACTICE MEDICINE IN THE STATE OF COLORADO, DEMONSTRATE
21 COMPETENCE IN THE PROCEDURES INVOLVED, AND ARE ACCEPTABLE TO
22 THE MEDICAL DIRECTOR OF THE ABORTION CLINIC;

23 (c) AT LEAST ONE PHYSICIAN WITH ADMITTING PRIVILEGES AT AN
24 ACCREDITED HOSPITAL IN THIS STATE AND WITHIN THIRTY MILES OF THE
25 LICENSED ABORTION CLINIC BE EMPLOYED AT THE ABORTION CLINIC.
26 SPECIFICALLY, ON ANY DAY WHEN ANY ABORTION IS PERFORMED IN THE
27 ABORTION CLINIC, A PHYSICIAN WITH ADMITTING PRIVILEGES AT AN

1 ACCREDITED HOSPITAL IN THIS STATE WITHIN THIRTY MILES OF THE
2 ABORTION CLINIC MUST REMAIN ON THE PREMISES OF THE ABORTION
3 CLINIC TO FACILITATE THE TRANSFER OF EMERGENCY CASES IF
4 HOSPITALIZATION OF AN ABORTION PATIENT OR A CHILD BORN ALIVE IS
5 NECESSARY AND UNTIL ALL ABORTION PATIENTS ARE STABLE AND READY
6 TO LEAVE THE RECOVERY ROOM.

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

10 (e) VOLUNTEERS, IF ANY, RECEIVE TRAINING IN THE SPECIFIC
11 RESPONSIBILITIES OF THE SERVICES THAT VOLUNTEERS PROVIDE AT AN
12 ABORTION CLINIC, INCLUDING COUNSELING AND PATIENT ADVOCACY, AND
13 AS PROVIDED IN THE RULES ADOPTED BY THE ATTORNEY GENERAL FOR
14 DIFFERENT TYPES OF VOLUNTEERS BASED ON THEIR RESPONSIBILITIES.

15 (4) THE ATTORNEY GENERAL SHALL ADOPT RULES RELATING TO
16 THE MEDICAL SCREENING AND EVALUATION OF EACH ABORTION CLINIC
17 PATIENT. AT A MINIMUM, THESE RULES MUST REQUIRE:

18 (a) A MEDICAL HISTORY INCLUDING THE FOLLOWING:

19 (I) REPORTED ALLERGIES TO MEDICATIONS, ANTISEPTIC
20 SOLUTIONS, OR LATEX;

21 (II) OBSTETRIC AND GYNECOLOGIC HISTORY;

22 (III) PAST SURGERIES; AND

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

24 (b) A PHYSICAL EXAMINATION, INCLUDING A BIMANUAL
25 EXAMINATION ESTIMATING UTERINE SIZE AND PALPATION OF THE ADNEXA;

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

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

1 PHYSICIAN;

2 (II) A TEST FOR ANEMIA;

3 (III) SEXUALLY TRANSMITTED INFECTION AND SEXUALLY

4 TRANSMITTED DISEASE TESTING;

5 (IV) RH TYPING, UNLESS RELIABLE WRITTEN DOCUMENTATION OF

6 BLOOD TYPE IS AVAILABLE; AND

7 (V) OTHER TESTS AS INDICATED FROM THE PHYSICAL

8 EXAMINATION;

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

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

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

12 PERSON SHALL HAVE DOCUMENTED EVIDENCE THAT HE OR SHE

13 COMPLETED A COURSE OR OTHER ACCEPTABLE TRAINING IN THE

14 OPERATION OF ULTRASOUND EQUIPMENT AS PRESCRIBED IN RULE.

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

16 GESTATIONAL AGE OF THE UNBORN CHILD BASED ON THE ULTRASOUND

17 EXAMINATION AND OBSTETRIC STANDARDS IN KEEPING WITH ESTABLISHED

18 STANDARDS OF CARE REGARDING THE ESTIMATION OF GESTATIONAL AGE

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

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

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

22 RECORD.

23 (5) THE ATTORNEY GENERAL SHALL ADOPT RULES RELATING TO

24 THE ABORTION PROCEDURE. AT A MINIMUM, THESE RULES MUST REQUIRE:

25 (a) THAT MEDICAL PERSONNEL ARE AVAILABLE TO ALL PATIENTS

26 THROUGHOUT THE ABORTION PROCEDURE;

27 (b) THAT STANDARDS FOR THE SAFE CONDUCT OF ABORTION

1 PROCEDURES CONFORM TO OBSTETRIC STANDARDS IN KEEPING WITH
2 ESTABLISHED STANDARDS OF CARE REGARDING THE ESTIMATION OF
3 GESTATIONAL AGE AS DEFINED IN RULE;

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

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

9 (e) THE USE OF APPROPRIATE MONITORING OF THE VITAL SIGNS
10 AND OTHER DEFINED SIGNS AND MARKERS OF THE PATIENT'S STATUS
11 THROUGHOUT THE ABORTION PROCEDURE AND DURING THE RECOVERY
12 PERIOD UNTIL THE PATIENT'S CONDITION IS DEEMED TO BE STABLE IN THE
13 RECOVERY ROOM.

14 (6) THE ATTORNEY GENERAL SHALL ADOPT RULES THAT PRESCRIBE
15 MINIMUM RECOVERY ROOM STANDARDS FOR THE ABORTION CLINIC. AT A
16 MINIMUM, THESE RULES MUST REQUIRE THAT:

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

20 (b) THE CLINIC ARRANGE HOSPITALIZATION IF ANY COMPLICATION
21 BEYOND THE MANAGEMENT CAPABILITY OF THE STAFF OCCURS OR IS
22 SUSPECTED;

23 (c) A LICENSED HEALTH CARE PROFESSIONAL WHO IS TRAINED IN
24 THE MANAGEMENT OF THE RECOVERY AREA AND IS CAPABLE OF
25 PROVIDING BASIC CARDIOPULMONARY RESUSCITATION AND RELATED
26 EMERGENCY PROCEDURES ACTIVELY MONITORS PATIENTS IN THE
27 RECOVERY ROOM;

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

9 (e) A PHYSICIAN DISCUSSES RHO(D) IMMUNE GLOBULIN WITH
10 EACH PATIENT FOR WHOM IT IS INDICATED AND ENSURES IT IS OFFERED TO
11 THE PATIENT IN THE IMMEDIATE POST-OPERATIVE PERIOD OR THAT IT WILL
12 BE AVAILABLE TO HER WITHIN SEVENTY-TWO HOURS AFTER COMPLETION
13 OF THE ABORTION PROCEDURE. IF THE PATIENT REFUSES, A REFUSAL FORM
14 APPROVED BY THE ATTORNEY GENERAL MUST BE SIGNED BY THE PATIENT
15 AND A WITNESS AND INCLUDED IN THE PATIENT MEDICAL RECORD.

16 (f) WRITTEN INSTRUCTIONS WITH REGARD TO POST-ABORTION
17 COITUS, SIGNS OF POSSIBLE COMPLICATIONS AND PROBLEMS, AND GENERAL
18 AFTER-CARE ARE GIVEN TO EACH PATIENT. EACH PATIENT MUST HAVE
19 SPECIFIC INSTRUCTIONS REGARDING ACCESS TO MEDICAL CARE FOR
20 COMPLICATIONS, INCLUDING A TELEPHONE NUMBER TO CALL FOR MEDICAL
21 EMERGENCIES.

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

25 (h) THE PHYSICIAN ENSURES THAT A LICENSED HEALTH CARE
26 PROFESSIONAL FROM THE ABORTION CLINIC MAKES A GOOD-FAITH EFFORT
27 TO CONTACT THE PATIENT BY TELEPHONE, WITH THE PATIENT'S CONSENT,

1 WITHIN TWENTY-FOUR HOURS AFTER SURGERY TO ASSESS THE PATIENT'S
2 RECOVERY; AND

3 (i) EQUIPMENT AND SERVICES ARE LOCATED IN THE RECOVERY
4 ROOM TO PROVIDE APPROPRIATE EMERGENCY RESUSCITATIVE AND LIFE
5 SUPPORT PROCEDURES PENDING THE TRANSFER OF THE PATIENT OR A
6 CHILD BORN ALIVE TO THE HOSPITAL.

7 (7) THE ATTORNEY GENERAL SHALL ADOPT RULES THAT PRESCRIBE
8 STANDARDS FOR FOLLOW-UP CARE FOR ABORTION PATIENTS. AT A
9 MINIMUM, THESE RULES MUST REQUIRE THAT:

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

14 (b) A URINE OR BLOOD TEST FOR PREGNANCY IS OBTAINED AT THE
15 TIME OF THE FOLLOW-UP VISIT TO RULE OUT CONTINUING PREGNANCY. IF
16 A CONTINUING PREGNANCY IS SUSPECTED, THE PATIENT MUST BE
17 APPROPRIATELY EVALUATED, AND A PHYSICIAN WHO PERFORMS
18 ABORTIONS MUST BE CONSULTED.

19 (8) THE ATTORNEY GENERAL SHALL ADOPT RULES TO PRESCRIBE
20 MINIMUM ABORTION CLINIC INCIDENT REPORTING. AT A MINIMUM, THESE
21 RULES MUST REQUIRE THAT:

22 (a) THE ABORTION CLINIC RECORDS EACH INCIDENT RESULTING IN
23 A PATIENT'S OR A BORN-ALIVE CHILD'S INJURY OCCURRING AT AN
24 ABORTION CLINIC AND SHALL REPORT THESE INCIDENTS IN WRITING TO THE
25 ATTORNEY GENERAL WITHIN TEN DAYS AFTER THE INCIDENT;

26 (b) IF A PATIENT'S DEATH OCCURS, OTHER THAN THE DEATH OF AN
27 UNBORN CHILD PROPERLY REPORTED PURSUANT TO LAW, THE ABORTION

1 CLINIC REPORTS IT TO THE ATTORNEY GENERAL NOT LATER THAN THE
2 NEXT ATTORNEY GENERAL WORK DAY; AND

3 (c) INCIDENT REPORTS ARE FILED WITH THE ATTORNEY GENERAL
4 AND APPROPRIATE PROFESSIONAL REGULATORY BOARDS.

5 (9) THE ATTORNEY GENERAL SHALL NOT RELEASE PERSONALLY
6 IDENTIFIABLE PATIENT OR PHYSICIAN INFORMATION.

7 (10) THE RULES ADOPTED BY THE ATTORNEY GENERAL PURSUANT
8 TO THIS PART 7 DO NOT LIMIT THE ABILITY OF A PHYSICIAN OR OTHER
9 HEALTH CARE PROFESSIONAL TO ADVISE A PATIENT ON ANY HEALTH ISSUE.

10 (11) THE PROVISIONS OF THIS PART 7 AND THE RULES AND
11 REGULATIONS ADOPTED PURSUANT HERETO SHALL BE IN ADDITION TO ANY
12 OTHER LAWS OR RULES APPLICABLE TO ABORTION CLINICS.

13 **24-31-708. Criminal penalties.** (1) A PERSON WHO OPERATES AN
14 ABORTION CLINIC WITHOUT A VALID LICENSE ISSUED BY THE ATTORNEY
15 GENERAL IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF,
16 SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR
17 MORE THAN FIVE HUNDRED DOLLARS.

18 (2) A PERSON WHO RECKLESSLY VIOLATES THIS PART 7 OR ANY
19 RULE ADOPTED PURSUANT TO THIS PART 7 IS GUILTY OF A MISDEMEANOR
20 AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT
21 LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

22 **24-31-709. Civil penalties and fines.** (1) ANY VIOLATION OF THIS
23 PART 7 OR ANY RULES ADOPTED PURSUANT TO THIS PART 7 MAY BE
24 SUBJECT TO A CIVIL PENALTY OR FINE OF UP TO FIVE THOUSAND DOLLARS
25 IMPOSED BY THE ATTORNEY GENERAL.

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

1 (3) IN DECIDING WHETHER AND TO WHAT EXTENT TO IMPOSE FINES,
2 THE ATTORNEY GENERAL SHALL CONSIDER THE FOLLOWING FACTORS:

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

6 (b) THE SIZE OF THE POPULATION AT RISK AS A CONSEQUENCE OF
7 THE VIOLATION;

8 (c) THE SEVERITY AND SCOPE OF THE ACTUAL OR POTENTIAL
9 HARM;

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

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

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

15 (g) THE FINANCIAL BENEFIT TO THE LICENSEE OF COMMITTING OR
16 CONTINUING THE VIOLATION.

17 (4) BOTH THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY
18 FOR THE JUDICIAL DISTRICT IN WHICH THE VIOLATION OCCURRED MAY
19 INSTITUTE A LEGAL ACTION TO ENFORCE COLLECTION OF CIVIL PENALTIES
20 OR FINES.

21 **24-31-710. Injunctive relief.** IN ADDITION TO ANY OTHER
22 PENALTY PROVIDED BY LAW, WHENEVER, IN THE JUDGMENT OF THE
23 ATTORNEY GENERAL, ANY PERSON HAS ENGAGED IN OR IS ABOUT TO
24 ENGAGE IN ANY ACTS OR PRACTICES WHICH CONSTITUTE OR WILL
25 CONSTITUTE A VIOLATION OF THIS PART 7 OR ANY RULE ADOPTED UNDER
26 THE PROVISIONS OF THIS PART 7, THE ATTORNEY GENERAL SHALL MAKE
27 APPLICATION TO ANY COURT OF COMPETENT JURISDICTION FOR AN ORDER

1 ENJOINING SUCH ACTS AND PRACTICES, AND UPON A SHOWING BY THE
2 ATTORNEY GENERAL THAT SUCH PERSON HAS ENGAGED IN OR IS ABOUT TO
3 ENGAGE IN ANY SUCH ACTS OR PRACTICES, AN INJUNCTION, RESTRAINING
4 ORDER, OR SUCH OTHER ORDER AS MAY BE APPROPRIATE SHALL BE
5 GRANTED BY SUCH COURT WITHOUT BOND.

6 **24-31-711. Construction.** (1) NOTHING IN THIS PART 7 SHALL BE
7 CONSTRUED AS CREATING OR RECOGNIZING A RIGHT TO ABORTION.

8 (2) IT IS NOT THE INTENTION OF THIS PART 7 TO MAKE LAWFUL AN
9 ABORTION THAT IS CURRENTLY UNLAWFUL.

10 **24-31-712. Right of intervention.** THE GENERAL ASSEMBLY, BY
11 JOINT RESOLUTION, MAY APPOINT ONE OR MORE OF ITS MEMBERS, WHO
12 SPONSORED OR COSPONSORED THE BILL THAT CREATED THIS PART 7, IN HIS
13 OR HER OFFICIAL CAPACITY, TO INTERVENE AS A MATTER OF RIGHT IN ANY
14 CASE IN WHICH THE CONSTITUTIONALITY OF THIS PART 7 OR ANY PORTION
15 THEREOF IS CHALLENGED.

16 **24-31-713. Severability.** ANY PROVISION OF THIS PART 7 HELD TO
17 BE INVALID OR UNENFORCEABLE BY ITS TERMS, OR AS APPLIED TO ANY
18 PERSON OR CIRCUMSTANCE, MUST BE CONSTRUED SO AS TO GIVE SUCH
19 PROVISION THE MAXIMUM EFFECT PERMITTED BY LAW, UNLESS SUCH
20 HOLDING IS ONE OF UTTER INVALIDITY OR UNENFORCEABILITY, IN WHICH
21 EVENT SUCH PROVISION IS DEEMED SEVERABLE HEREFROM AND SHALL NOT
22 AFFECT THE REMAINDER HEREOF OR THE APPLICATION OF SUCH PROVISION
23 TO OTHER PERSONS NOT SIMILARLY SITUATED OR TO OTHER, DISSIMILAR
24 CIRCUMSTANCES.

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