

HOUSE BILL 436

By Shipley

AN ACT to amend Tennessee Code Annotated, Title 63
and Title 68, relative to patient care.

WHEREAS, the general assembly has a legitimate concern for the health and safety of its citizens;

WHEREAS, the state of Tennessee has legitimate interests from the outset of pregnancy in protecting the health of women;

WHEREAS, the general assembly understands that the medical, emotional, and psychological consequences of an abortion are serious and can be long lasting; and

WHEREAS, Tennessee has a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that ensure maximum safety for the patient; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-201(3), is amended by deleting the language "a substantial number of" in the last sentence and by substituting instead the language "any".

SECTION 2. Tennessee Code Annotated, Section 68-11-223, is amended by deleting in its entirety the language in subdivision (b)(1)(D) and by redesignating the present language accordingly.

SECTION 3. Tennessee Code Annotated, Section 68-11-223, is further amended by adding the following language as a new subsection (b) and by redesignating the present language accordingly:

(b) Administrative rules and regulations promulgated by the board for the building standards of such centers shall at a minimum require:

- (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 designated for pre-procedure hand washing;
- (5) Private procedure rooms;
- (6) Adequate lighting and ventilation for abortion procedures;
- (7) Surgical or gynecological examination tables and other fixed equipment;
- (8) Post procedure recovery rooms that are supervised, staffed, and equipped to meet the patients' needs;
- (9) Emergency exits to accommodate a stretcher or gurney;
- (10) Areas designated for the cleaning and sterilizing of instruments;
- (11) Adequate areas for the secure storage of medical records and necessary equipment and supplies; and
- (12) A display of the center's current license issued by the board in a place that is conspicuous to all patients.

SECTION 4. Tennessee Code Annotated, Section 68-11-223, is further amended by adding the following as new, appropriately designated subsections:

() Administrative rules and regulations promulgated by the board for the supplies and equipment standards for such centers shall at a minimum:

- (1) Prescribe required equipment and supplies, including medications, needed to conduct an abortion procedure that the medical staff of the center anticipates performing and for monitoring the progress of each patient throughout the procedure and recovery period;

(2) Require, at all times, an adequate amount of equipment and supplies to assure sufficient quantities of clean and sterilized durable equipment and supplies to meet the needs of each patient;

(3) Prescribe required equipment, supplies, and medications that shall be available and ready for immediate use in an emergency and requirements for written protocols and procedures to be followed by staff in an emergency, such as the loss of electrical power;

(4) Prescribe required equipment and supplies for required laboratory tests and requirements for protocols to calibrate and maintain all laboratory equipment operated by center staff;

(5) Require the presence of ultrasound equipment in those centers that provide abortions after twelve (12) weeks' gestation; and

(6) Require that all equipment be safe for the patient and staff, meet applicable federal standards, and be checked annually to ensure safety and appropriate calibration;

() Administrative rules and regulations promulgated by the board for center personnel shall at a minimum require:

(1) The designation of a medical director who is licensed to practice medicine in this state under title 63, chapter 6;

(2) That all medical or surgical abortion procedures be performed by a physician licensed to practice medicine in this state under title 63, chapter 6;

(3) A physician with admitting privileges at an accredited hospital within this state to be available during any medical or surgical abortion procedure;

(4) That in the absence of a physician, a registered nurse, nurse practitioner, licensed practical nurse, or physician's assistant be present and

remain at a center whenever medical or surgical abortion procedures are performed to provide postoperative monitoring and care until each patient having an abortion procedure is discharged;

(5) Surgical assistants to receive training in counseling, patient advocacy, and the specific responsibilities of the services that surgical assistants provide; and

(6) Volunteers to receive training in the specific responsibilities of the services that volunteers provide, including counseling and patient advocacy as provided in the rules adopted by the board for different types of volunteers based on their responsibilities.

() Administrative rules and regulations promulgated by the board relating to the medical screening and evaluation of each patient having an abortion procedure shall at a minimum require the following:

(1) A medical history including:

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

(B) Obstetric and gynecology history; and

(C) Past surgeries;

(2) A physical examination including a bimanual examination estimating uterine size and palpitation of the adnexa;

(3) The appropriate laboratory tests including:

(A) Patients for whom an ultrasound examination is not performed before an abortion procedure, urine or blood tests for pregnancy performed prior to such procedure;

(B) A test for anemia;

(C) Rh typing, unless reliable written documentation of blood type is available; and

(D) Other tests as indicated from the physical examination;

(4) An ultrasound evaluation for all patients who elect to have an abortion after twelve (12) weeks' gestation. The rules shall require that if a person who is not a physician performs an ultrasound examination, that person shall have documented evidence that the person completed a course in the operation of ultrasound equipment as prescribed by rule. The physician or other health care professional shall review, at the request of the patient, the ultrasound evaluation results with the patient before the abortion procedure is performed, including the possible gestational age of the fetus; and

(5) The physician is responsible for estimating the gestational age of the fetus based on the ultrasound examination and obstetric standards in keeping with established standards of care regarding the estimation of fetal age as defined in rule and shall record such estimate in the patient's medical history. The physician shall keep original prints of each ultrasound examination of a patient in the patient's medical history file.

() Administrative rules and regulations promulgated by the board shall at a minimum require the following rules relating to any medical or surgical abortion procedure:

(1) Medical personnel must be available to each patient throughout the abortion procedure;

(2) Standards must be adopted for the safe conduct of abortion procedures that conform to obstetric standards in keeping with established standards of care regarding the estimation of fetal age;

(3) There must be appropriate use of local anesthesia, analgesia and sedation if ordered by the physician;

(4) Appropriate precautions must be utilized, such as the establishment of intravenous access at least for patients undergoing second or third trimester abortion procedures; and

(5) There must be appropriate monitoring of the vital signs and other defined signs and markers of the patient's status throughout the abortion procedure and during the recovery period until the patient's condition is deemed stable in the recovery room.

() Administrative rules and regulations promulgated by the board shall prescribe minimum recovery room standards to include:

(1) Immediate post procedure care consisting of observation in a supervised recovery room for as long as the patient's condition warrants;

(2) Hospitalization of a patient if any complication beyond the management capability of center personnel occurs or is suspected;

(3) A licensed health professional who is trained in the management of the recovery area and is capable of providing basic cardiopulmonary resuscitation and related emergency procedures must be present until all patients having a pregnancy terminated are discharged;

(4) A physician with admitting privileges at an accredited hospital in this state must remain on the center's premises until all patients having an abortion procedure are stable and ready to leave the recovery room and in case it is necessary to facilitate the transfer of emergency cases if hospitalization of a patient or viable fetus is necessary. A physician shall sign a discharge order and be readily accessible and available until the last patient is discharged;

(5) A physician must discuss RhO(d) immune globulin with each patient for whom it is indicated and assure that it is offered to a patient terminating a pregnancy in the immediate postoperative period or inform such patient that it will be available within seventy-two (72) hours after completion of the procedure. If the patient refuses, a refusal form provided by the department shall be signed by the patient and a witness and shall be included in the medical record;

(6) There must be written instructions with regard to pregnancy termination post procedure coitus, signs of possible problems, and general aftercare given to each patient. Each patient shall have specific instructions regarding access to medical care for complications, including a telephone number to call in case of medical emergency;

(7) There must be a specified minimum length of time that a patient remains in the recovery room according to the type of abortion procedure and duration of gestation;

(8) The physician must assure that a licensed health professional from the center makes a good faith effort to contact the patient by telephone, with the patient's consent, within twenty-four (24) hours after surgery to assess the patient's recovery; and

(9) Equipment and services must be located in the recovery room to provide appropriate emergency resuscitative and life support procedures pending the transfer of the patient or viable fetus to the hospital.

() Administrative rules and regulations promulgated by the board shall prescribe minimum standards for follow-up care to require that:

(1) A post abortion procedure medical visit be offered and, if requested, scheduled for two (2) to three (3) weeks after the procedure that will include a medical examination and review of the results of all laboratory tests; and

(2) A urine pregnancy test be obtained during the follow-up visit to rule out continuing pregnancy. If a continuing pregnancy is suspected, the patient shall be evaluated and a physician who performs abortion procedures shall be consulted.

() Administrative rules and regulations promulgated by the board shall at a minimum require centers to conduct incident reporting that requires:

(1) Each incident resulting in a patient's or viable fetus' serious injury occurring at such center to be recorded and reported in writing to the department within ten (10) days after the incident. For the purposes of this subsection, "serious injury" means an injury that occurs during an abortion procedure that creates a serious risk of substantial impairment of a major body organ;

(2) The facility to report to the department not later than the next business day any incident of patient death, other than a fetal death properly reported under law; and

(3) The incident reports to be filed with the department and any appropriate professional regulatory boards.

() The department shall not release any personally identifiable patient or physician information collected in accordance with this section.

() The rules adopted by the board shall not limit the ability of a physician or other health professional to advise a patient on any health care issue.

() The provisions of this act and the rules and regulations adopted pursuant hereto shall be in addition to any other laws, rules and regulations that are applicable to ambulatory surgical treatment centers as defined in § 68-11-201(3).

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect July 1, 2009, the public welfare requiring it.