

## HOUSE BILL NO. HB0148

Regulation of surgical abortions.

Sponsored by: Representative(s) Lawley, Bear and Washut and  
Senator(s) Boner

A BILL

for

1 AN ACT relating to public health and safety; requiring the  
2 licensure of surgical abortion facilities as specified;  
3 requiring licensed physicians to perform abortions;  
4 providing criminal penalties for violations; specifying  
5 civil liability for damages resulting from abortions;  
6 providing definitions; making conforming amendments;  
7 specifying applicability; requiring reports; requiring  
8 rulemaking; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 35-6-201 through 35-6-204 are created  
13 to read:

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ARTICLE 2

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REGULATION OF SURGICAL ABORTIONS

**35-6-201. Definitions.**

(a) As used in this article:

(i) "Abortion" means the act of using or prescribing any instrument, medicine, drug or any other substance, device or means with the intent to terminate the clinically diagnosable pregnancy of a woman, including the elimination of one (1) or more unborn babies in a multifetal pregnancy, with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn baby. "Abortion" shall not include any use, prescription or means specified in this paragraph if the use, prescription or means are done with the intent to:

(A) Save the life or preserve the health of the unborn baby;

(B) Remove a dead unborn baby caused by spontaneous abortion or intrauterine fetal demise;

1 (C) Treat a woman for an ectopic pregnancy;

2 or

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4 (D) Provide treatment for a pregnant woman  
5 when a medical procedure or treatment is necessary, based  
6 on reasonable medical judgment, to save or preserve the  
7 life of the pregnant woman.

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9 (ii) "Hospital" means those institutions  
10 licensed by the Wyoming department of health as hospitals;

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12 (iii) "Physician" means any person licensed to  
13 practice medicine in this state;

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15 (iv) "Pregnancy" or "pregnant" means the human  
16 female reproductive condition of having a living unborn  
17 baby or human being within a human female's body throughout  
18 the entire embryonic and fetal stages of the unborn human  
19 being from fertilization to full gestation and childbirth;

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21 (v) "Reasonable medical judgment" means a  
22 medical judgment that would be made or a medical action  
23 that would be undertaken by a reasonably prudent, qualified

1 physician who is knowledgeable about the case and the  
2 treatment possibilities with respect to the medical  
3 conditions involved;

4

5 (vi) "Surgical abortion" means an induced  
6 abortion performed or attempted through use of a machine,  
7 medical device, surgical instrument or surgical tool, or  
8 any combination thereof, to terminate the clinically  
9 diagnosable pregnancy of a woman with knowledge and the  
10 intent that the termination by those means will cause, with  
11 reasonable likelihood, the death of the unborn child;

12

13 (vii) "Surgical abortion facility" means any  
14 facility that provides a surgical abortion to a woman and  
15 performs not less than three (3) first-trimester surgical  
16 abortions in any one (1) month or not less than one (1)  
17 second-trimester or third-trimester surgical abortion in  
18 any one (1) year.

19

20 **35-6-202. Surgical abortion facilities; licensure**  
21 **requirement; prohibitions; penalties.**

22

1           (a) Each surgical abortion facility in Wyoming shall  
2 be licensed as an ambulatory surgical center in accordance  
3 with W.S. 35-2-901 through 35-2-914 and the rules of the  
4 department of health. Each surgical abortion facility  
5 performing surgical abortions shall have a separate  
6 license.

7

8           (b) No surgical abortion facility shall provide  
9 surgical abortions to any pregnant woman without first  
10 being licensed as an ambulatory surgical center.

11

12           (c) Each surgical abortion facility shall comply with  
13 all rules of the department of health concerning the  
14 operation and regulation of ambulatory surgical centers. No  
15 license issued to a surgical abortion facility shall be  
16 transferable or assignable to any other person or facility.

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18           (d) Each licensed physician performing at least one  
19 (1) surgical abortion at a surgical abortion facility  
20 shall:

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22           (i) Report each surgical abortion to the  
23 department of health and shall attest in the report that

1 the physician is licensed and in good standing with the  
2 state board of medicine;

3

4 (ii) Submit documentation in a form and  
5 frequency required by the department of health that  
6 demonstrates that the licensed physician has admitting  
7 privileges at a hospital located not more than ten (10)  
8 miles from the abortion facility where the licensed  
9 physician is performing or will perform surgical abortions.

10

11 (e) Any person who violates this section shall be  
12 guilty of a misdemeanor punishable by a fine not to exceed  
13 one thousand dollars (\$1,000.00). Each calendar day in  
14 which a violation of this section occurs or continues is a  
15 separate offense.

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17 **35-6-203. Abortion facilities; surgical abortions;**  
18 **requirements; rulemaking.**

19

20 (a) Any surgical abortion performed in the state  
21 shall only be performed by a physician licensed in the  
22 state of Wyoming.

23

1           (b) Any person who performs in the state any surgical  
2 abortion in violation of subsection (a) of this section is  
3 guilty of a felony punishable by imprisonment for not less  
4 than one (1) year nor more than fourteen (14) years.

5

6           (c) No person shall perform a surgical abortion in  
7 Wyoming who is not a licensed physician with admitting  
8 privileges at a hospital located not more than ten (10)  
9 miles from the abortion facility where the surgical  
10 abortion is performed.

11

12           (d) Any person who violates subsection (c) of this  
13 section shall be guilty of a misdemeanor punishable by a  
14 fine of one thousand dollars (\$1,000,00). For purposes of  
15 this subsection, each surgical abortion shall constitute a  
16 separate offense of subsection (c) of this section.

17

18           (e) The department of health shall promulgate rules  
19 necessary to regulate surgical abortion facilities as  
20 ambulatory surgical centers under W.S. 35-2-901 through  
21 35-2-914, provided that the rules:

22

1           (i) Applicable to surgical abortion facilities  
2 are not less stringent than those rules applicable to  
3 ambulatory surgical centers;

4

5           (ii) Provide for the physical inspection of  
6 surgical abortion facilities by the department of health  
7 not less than one (1) time per year.

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9           **35-6-204. Applicability; effect.**

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11 If any provision of this article conflicts with the Life is  
12 a Human Right Act or W.S. 35-6-139, the provisions of the  
13 Life is a Human Right Act and W.S. 35-6-139 shall control  
14 over this article to the extent that the Life is a Human  
15 Right Act and W.S. 35-6-139 are enforceable.

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17           **Section 2.** W.S. 35-2-901(a)(ii) and 35-2-908 are  
18 amended to read:

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20           **35-2-901. Definitions; applicability of provisions.**

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22           (a) As used in this act:

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1           (ii) "Ambulatory surgical center" means a  
2 facility which provides surgical treatment to patients not  
3 requiring hospitalization and is not part of a hospital or  
4 offices of private physicians, dentists or podiatrists.  
5 "Ambulatory surgical center" shall include any surgical  
6 abortion facility as defined by W.S. 35-6-201(a)(vii);

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8           **35-2-908. Rules and regulations.**

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10          (a) The department shall promulgate and enforce  
11 reasonable rules and regulations necessary to protect the  
12 health, safety and welfare of patients of health care  
13 facilities licensed under this act.

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15          (b) Not less than thirty (30) days before  
16 promulgating or amending any rules regarding the licensure  
17 of ambulatory surgical centers, the department shall report  
18 to the joint labor, health and social services interim  
19 committee if the new or amended rule would impact the  
20 operation, inspection or licensure of surgical abortion  
21 facilities as defined by W.S. 35-6-201(a)(vii) as  
22 ambulatory surgical centers under this act.

23

1           **Section 3.** The department of health shall promulgate  
2 all rules necessary to implement this act.

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4           **Section 4.** This act is effective immediately upon  
5 completion of all acts necessary for a bill to become law  
6 as provided by Article 4, Section 8 of the Wyoming  
7 Constitution.

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9

(END)