A BILL FOR AN ACT

CONCERNING THE ADOPTION OF THE "WOMEN'S HEALTH PROTECTION 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:

1. The abortion clinic's physical facilities;
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.

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

SECTION 1. In Colorado Revised Statutes, add article 47 to title 25 as follows:

ARTICLE 47
Women's Health Protection

25-47-101. Short title. This article may be cited and known as the "Women's Health Protection Act".

25-47-102. Legislative declaration. (1) The General Assembly finds that:

(a) The vast majority of all abortions in Colorado are performed in clinics devoted primarily to providing abortions and family planning services. Most women who seek abortions at these facilities do not have any relationship with the physician who performs the abortion either before or after the procedure. They do not return to the facility for post-surgical care. In most instances, the woman's only actual contact with the abortion provider occurs simultaneously with the abortion procedure, with little opportunity to ask questions about the procedure, potential complications, and proper follow-up care.
(b) "The medical, emotional, and psychological consequences of an abortion are serious and can be lasting ...", as stated by the United States Supreme Court in *H.L. v. Matheson*, 450 U.S. 398, 411 (1981);

(c) Abortion is an invasive, surgical procedure that can lead to numerous and serious short- and long-term medical complications. Potential complications for abortion include, among others, bleeding, hemorrhage, infection, uterine perforation, uterine scarring, blood clots, cervical tears, incomplete abortion, failure to terminate the pregnancy, free fluid in the abdomen, acute abdomen, organ damage, missed ectopic pregnancies, cardiac arrest, sepsis, respiratory arrest, reactions to anesthesia, an increased risk of breast cancer, fertility problems, emotional problems, and even death.

(d) The risks for second-trimester abortions are greater than for first-trimester abortions. The risk of hemorrhage, in particular, is greater, and the resulting complications may require a hysterectomy, other reparative surgery, or a blood transfusion.

(e) Colorado has a legitimate concern for the public's health and safety. *Williamson v. Lee Optical*, 348 U.S. 483, 486 (1985);

(f) Colorado "has legitimate interests from the outset of pregnancy in protecting the health of women", as stated by the United States Supreme Court in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 847 (1992);

(g) More specifically, Colorado "has a legitimate concern
WITH THE HEALTH OF WOMEN WHO UNDERGO ABORTIONS", AS STATED BY
THE UNITED STATES SUPREME COURT IN AKRON V. AKRON CTR. FOR
REPRODUCTIVE HEALTH, INC., 462 U.S. 416, 428-29 (1983); AND

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

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

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

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

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

(1) "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 WITH KNOWLEDGE THAT THE TERMINATION BY
THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD, CAUSE THE DEATH

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

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

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

(c) REMOVE AN ECTOPIC PREGNANCY.

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

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

(4) "CONCEPTION" MEANS THE FUSION OF THE HUMAN
SPERMATOZOOON WITH A HUMAN OVUM.

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

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

(7) "FERTILIZATION" MEANS THE FUSION OF THE HUMAN
SPERMATOZOOON WITH A HUMAN OVUM.

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

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

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

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

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

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

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

(4) The department may issue a temporary or provisional license to an abortion clinic for a period of six months in cases in which sufficient compliance with minimum standards and rules require an extension of time if disapproval has not been received from any other state or local agency otherwise authorized to inspect such facility. The failure to comply must not be detrimental to the health and safety of the public.

(5) A license applies only to the location and licensee stated on the application, and such license, once issued, shall not be transferable from one place to another or from one licensee to another. If the location of the facility changes, the license is automatically revoked. A new application form must be completed prior to all license renewals.

(6) An application for a license or renewal to operate an abortion clinic must be accompanied by a fee of six thousand six hundred dollars, which is levied as the license fee for operation of an abortion clinic for a period of one year. The renewal fee is one thousand four hundred and forty dollars.

(7) Each license issued expires one year after the date of issuance unless sooner revoked, must be on a form prescribed by the department, and may be renewed from year to year upon application and payment of the license fee.

(8) The department may deny, suspend, revoke, or refuse to renew a license in any case in which it finds that there has been a substantial failure of the applicant or licensee to comply with the requirements of this article or rules promulgated.
PURSUANT TO THIS ARTICLE. IN SUCH CASE, THE DEPARTMENT SHALL
NOTIFY THE APPLICANT OR LICENSEE WITHIN THIRTY DAYS OF THE ACTION
SPECIFYING THE REASONS FOR THE ACTION.

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

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

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

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

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

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

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


25-47-107. Department rules for abortion clinics. (1) The department shall adopt rules for an abortion clinic's physical facilities. At a minimum, these rules must prescribe standards for:

(a) Adequate private space that is specifically designated
(b) DRESSING ROOMS FOR STAFF AND PATIENTS;
(c) APPROPRIATE LAVATORY AREAS;
(d) AREAS FOR PRE-PROCEDURE HAND WASHING;
(e) PRIVATE PROCEDURE ROOMS;
(f) ADEQUATE LIGHTING AND VENTILATION FOR ABORTION PROCEDURES;
(g) SURGICAL OR GYNECOLOGIC EXAMINATION TABLES AND OTHER FIXED EQUIPMENT;
(h) POST-PROCEDURE RECOVERY ROOMS THAT ARE SUPERVISED, STAFFED, AND EQUIPPED TO MEET THE PATIENTS' NEEDS;
(i) EMERGENCY EXITS SUFFICIENT TO ACCOMMODATE A STRETCHER OR GURNEY;
(j) AREAS FOR CLEANING AND STERILIZING INSTRUMENTS;
(k) ADEQUATE AREAS FOR THE SECURE STORAGE OF MEDICAL RECORDS AND NECESSARY EQUIPMENT AND SUPPLIES; AND
(l) REQUIRING THE DISPLAY IN THE ABORTION CLINIC, IN A PLACE THAT IS CONSPICUOUS TO ALL PATIENTS, OF THE CLINIC'S CURRENT LICENSE ISSUED BY THE DEPARTMENT.

(2) THE DEPARTMENT SHALL ADOPT RULES TO PRESCRIBE ABORTION CLINIC SUPPLY AND EQUIPMENT STANDARDS, INCLUDING SUPPLIES AND EQUIPMENT THAT ARE REQUIRED TO BE IMMEDIATELY AVAILABLE FOR USE IN AN EMERGENCY. AT A MINIMUM, THESE RULES MUST:
(a) PRESCRIBE REQUIRED EQUIPMENT AND SUPPLIES, INCLUDING MEDICATIONS, REQUIRED FOR THE PERFORMANCE, IN AN APPROPRIATE FASHION, OF ANY ABORTION PROCEDURE THAT THE MEDICAL STAFF OF THE
ABORTION CLINIC ANTICIPATES PERFORMING AND FOR MONITORING THE
PROGRESS OF EACH PATIENT THROUGHOUT THE PROCEDURE AND
RECOVERY PERIOD;

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

(c) PRESCRIBE REQUIRED EQUIPMENT, SUPPLIES, AND MEDICATIONS
THAT MUST 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;

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

(e) REQUIRE ULTRASOUND EQUIPMENT IN ALL ABORTION CLINICS;

AND

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

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

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

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

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

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

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

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

(a) A MEDICAL HISTORY INCLUDING THE FOLLOWING:

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

(II) OBSTETRIC AND GYNECOLOGIC HISTORY;

(III) PAST SURGERIES; AND

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

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

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

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

(II) A TEST FOR ANEMIA;

(III) RH TYPING, UNLESS RELIABLE WRITTEN DOCUMENTATION OF
BLOOD TYPE IS AVAILABLE; AND

(IV) OTHER TESTS AS INDICATED FROM THE PHYSICAL
EXAMINATION;

(d) AN ULTRASOUND EVALUATION FOR ALL PATIENTS WHO ELECT
TO HAVE AN ABORTION. THE RULES SHALL REQUIRE THAT IF A PERSON
WHO IS NOT A PHYSICIAN PERFORMS AN ULTRASOUND EXAMINATION, THAT
PERSON SHALL HAVE DOCUMENTED EVIDENCE THAT HE OR SHE
COMPLETED A COURSE OR OTHER ACCEPTABLE TRAINING IN THE
OPERATION OF ULTRASOUND EQUIPMENT AS PRESCRIBED IN RULE.

(e) THAT THE PHYSICIAN IS RESPONSIBLE FOR ESTIMATING THE
GESTATIONAL AGE OF THE UNBORN CHILD BASED ON THE ULTRASOUND
EXAMINATION AND OBSTETRIC STANDARDS IN KEEPING WITH ESTABLISHED
STANDARDS OF CARE REGARDING THE ESTIMATION OF GESTATIONAL AGE
AS DEFINED IN RULE AND SHALL WRITE THE ESTIMATE IN THE PATIENT’S
MEDICAL RECORD. THE PHYSICIAN SHALL KEEP ORIGINAL PRINTS OF EACH
ULTRASOUND EXAMINATION OF A PATIENT IN THE PATIENT’S MEDICAL
(5) The department shall adopt rules relating to the abortion procedure. At a minimum these rules shall require that:

(a) Medical personnel are available to all patients throughout the abortion procedure;

(b) Standards for the safe conduct of abortion procedures conform to obstetric standards in keeping with established standards of care regarding the estimation of gestational age as defined in rule;

(c) Appropriate use of local anesthesia, analgesia, and sedation if ordered by the physician;

(d) The use of appropriate precautions, such as the establishment of intravenous access at least for patients undergoing second- or third-trimester abortions; and

(e) The use of 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 to be stable in the recovery room.

(6) The department shall adopt rules that prescribe minimum recovery room standards for the abortion clinic. At a minimum these rules must require that:

(a) Immediate post-procedure care consists of observation in a supervised recovery room for as long as the patient’s condition warrants;

(b) The clinic arrange hospitalization if any complication
BEYOND THE MANAGEMENT CAPABILITY OF THE STAFF OCCURS OR IS SUSPECTED;

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

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

(e) A PHYSICIAN DISCUSSES RH\(\text{O}(d)\) IMMUNE GLOBULIN WITH EACH PATIENT FOR WHOM IT IS INDICATED AND ENSURES IT IS OFFERED TO THE PATIENT IN THE IMMEDIATE POST-OPERATIVE PERIOD OR THAT IT WILL BE AVAILABLE TO HER WITHIN SEVENTY-TWO HOURS AFTER COMPLETION OF THE ABORTION PROCEDURE. IF THE PATIENT REFUSES, A REFUSAL FORM APPROVED BY THE DEPARTMENT MUST BE SIGNED BY THE PATIENT AND A WITNESS AND INCLUDED IN THE PATIENT MEDICAL RECORD.

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

(g) There is a specified minimum length of time that a patient remains in the recovery room by type of abortion procedure and duration of gestation;

(h) The physician ensures that a licensed health care professional from the abortion clinic makes a good-faith effort to contact the patient by telephone, with the patient's consent, within twenty-four hours after surgery to assess the patient's recovery; and

(i) Equipment and services are located in the recovery room to provide appropriate emergency resuscitative and life support procedures pending the transfer of the patient or a child born alive to the hospital.

(7) The department shall adopt rules that prescribe standards for follow-up care for abortion patients. At a minimum, these rules must require that:

(a) A post-abortion medical visit is offered and, if requested, scheduled for two to three weeks after the abortion procedure, including a medical examination and a review of the results of all laboratory tests; and

(b) A urine or blood test for pregnancy is obtained at the time of the follow-up visit to rule out continuing pregnancy. If a continuing pregnancy is suspected, the patient must be appropriately evaluated, and a physician who performs abortions must be consulted.

(8) The department shall adopt rules to prescribe minimum abortion clinic incident reporting. At a minimum, these rules
MUST REQUIRE THAT:

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

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

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

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

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

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


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

25-47-109. Civil penalties and fines. (1) Any violation of this article or any rules adopted pursuant to this article may be subject to a civil penalty or fine up to five thousand dollars imposed by the department.

(2) Each day of violation constitutes a separate violation for purposes of assessing civil penalties or fines.

(3) In deciding whether and to what extent to impose fines, the department shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical harm to a patient or individual will result or has resulted;

(b) The size of the population at risk as a consequence of the violation;

(c) The severity and scope of the actual or potential harm;

(d) The extent to which the provisions of the applicable statutes or rules were violated;

(e) Any indications of good faith exercised by the licensee;

(f) The duration, frequency, and relevance of any previous violations committed by the licensee; and

(g) The financial benefit to the licensee of committing or continuing the violation.

(4) Both the attorney general and the district attorney for the county in which the violation occurred may institute a legal action to enforce collection of civil penalties or fines.

25-47-110. Injunctive relief. In addition to any other
PENALTY PROVIDED BY LAW, WHENEVER, IN THE JUDGMENT OF THE DIRECTOR, ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY ACTS OR PRACTICES WHICH CONSTITUTE OR WILL CONSTITUTE A VIOLATION OF THIS ARTICLE OR ANY RULE ADOPTED UNDER THE PROVISIONS OF THIS ARTICLE, THE DIRECTOR SHALL MAKE APPLICATION TO ANY COURT OF COMPETENT JURISDICTION FOR AN ORDER ENJOINING SUCH ACTS AND PRACTICES, AND UPON A SHOWING BY THE DIRECTOR THAT SUCH PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY SUCH ACTS OR PRACTICES, AN INJUNCTION, RESTRAINING ORDER, OR SUCH OTHER ORDER AS MAY BE APPROPRIATE SHALL BE GRANTED BY SUCH COURT WITHOUT BOND.

25-47-111. Construction. (1) Nothing in this article shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of this article to make lawful an abortion that is currently unlawful.

25-47-112. Right of intervention. The General Assembly, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored the bill that created this article in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this article or any portion thereof is challenged.

25-47-113. Severability. Any provision of this article held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, must be construed so as to give such provision the maximum effect permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event such provision is deemed severable herefrom and shall not
AFFECT THE REMAINDER HEREOF OR THE APPLICATION OF SUCH PROVISION TO OTHER PERSONS NOT SIMILARLY SITUATED OR TO OTHER, DISSIMILAR CIRCUMSTANCES.

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