

Senate Engrossed
FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 75

SENATE BILL 1324

AN ACT

AMENDING SECTION 36-449.03, ARIZONA REVISED STATUTES; RELATING TO ABORTION CLINICS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 36-449.03, Arizona Revised Statutes, is amended to
3 read:
4 36-449.03. Abortion clinics; rules; civil penalties
5 A. The director shall adopt rules for an abortion clinic's physical
6 facilities. At a minimum these rules shall prescribe standards for:
7 1. Adequate private space that is specifically designated for
8 interviewing, counseling and medical evaluations.
9 2. Dressing rooms for staff and patients.
10 3. Appropriate lavatory areas.
11 4. Areas for preprocedure hand washing.
12 5. Private procedure rooms.
13 6. Adequate lighting and ventilation for abortion procedures.
14 7. Surgical or gynecologic examination tables and other fixed
15 equipment.
16 8. Postprocedure recovery rooms that are supervised, staffed and
17 equipped to meet the patients' needs.
18 9. Emergency exits to accommodate a stretcher or gurney.
19 10. Areas for cleaning and sterilizing instruments.
20 11. Adequate areas for the secure storage of medical records and
21 necessary equipment and supplies.
22 12. The display in the abortion clinic, in a place that is conspicuous
23 to all patients, of the clinic's current license issued by the department.
24 B. The director shall adopt rules to prescribe abortion clinic
25 supplies and equipment standards, including supplies and equipment that are
26 required to be immediately available for use or in an emergency. At a
27 minimum these rules shall:
28 1. Prescribe required equipment and supplies, including medications,
29 required for the conduct, in an appropriate fashion, of any abortion
30 procedure that the medical staff of the clinic anticipates performing and for
31 monitoring the progress of each patient throughout the procedure and recovery
32 period.
33 2. Require that the number or amount of equipment and supplies at the
34 clinic is adequate at all times to assure sufficient quantities of clean and
35 sterilized durable equipment and supplies to meet the needs of each patient.
36 3. Prescribe required equipment, supplies and medications that shall
37 be available and ready for immediate use in an emergency and requirements for
38 written protocols and procedures to be followed by staff in an emergency,
39 such as the loss of electrical power.
40 4. Prescribe required equipment and supplies for required laboratory
41 tests and requirements for protocols to calibrate and maintain laboratory
42 equipment at the abortion clinic or operated by clinic staff.
43 5. Require ultrasound equipment.

1 6. Require that all equipment is safe for the patient and the staff,
2 meets applicable federal standards and is checked annually to ensure safety
3 and appropriate calibration.

4 C. The director shall adopt rules relating to abortion clinic
5 personnel. At a minimum these rules shall require that:

6 1. The abortion clinic designate a medical director of the abortion
7 clinic who is licensed pursuant to title 32, chapter 13, 17 or 29.

8 2. Physicians performing abortions are licensed pursuant to title 32,
9 chapter 13 or 17, demonstrate competence in the procedure involved and are
10 acceptable to the medical director of the abortion clinic.

11 3. A physician is available:

12 (a) For a surgical abortion who has admitting privileges at a health
13 care institution that is classified by the director as a hospital pursuant to
14 section 36-405, subsection B and that is within thirty miles of the abortion
15 clinic.

16 (b) For a medication abortion who has admitting privileges at a health
17 care institution that is classified by the director as a hospital pursuant to
18 section 36-405, subsection B.

19 4. If a physician is not present, a registered nurse, nurse
20 practitioner, licensed practical nurse or physician assistant is present and
21 remains at the clinic when abortions are performed to provide postoperative
22 monitoring and care, or monitoring and care after inducing a medication
23 abortion, until each patient who had an abortion that day is discharged.

24 5. Surgical assistants receive training in counseling, patient
25 advocacy and the specific responsibilities of the services the surgical
26 assistants provide.

27 6. Volunteers receive training in the specific responsibilities of the
28 services the volunteers provide, including counseling and patient advocacy as
29 provided in the rules adopted by the director for different types of
30 volunteers based on their responsibilities.

31 D. The director shall adopt rules relating to the medical screening
32 and evaluation of each abortion clinic patient. At a minimum these rules
33 shall require:

34 1. A medical history, including the following:

35 (a) Reported allergies to medications, antiseptic solutions or latex.

36 (b) Obstetric and gynecologic history.

37 (c) Past surgeries.

38 2. A physical examination, including a bimanual examination estimating
39 uterine size and palpation of the adnexa.

40 3. The appropriate laboratory tests, including:

41 (a) Urine or blood tests for pregnancy performed before the abortion
42 procedure.

43 (b) A test for anemia.

44 (c) Rh typing, unless reliable written documentation of blood type is
45 available.

1 (d) Other tests as indicated from the physical examination.

2 4. An ultrasound evaluation for all patients. The rules shall require
3 that if a person who is not a physician performs an ultrasound examination,
4 that person shall have documented evidence that the person completed a course
5 in the operation of ultrasound equipment as prescribed in rule. The
6 physician or other health care professional shall review, at the request of
7 the patient, the ultrasound evaluation results with the patient before the
8 abortion procedure is performed, including the probable gestational age of
9 the fetus.

10 5. That the physician is responsible for estimating the gestational
11 age of the fetus based on the ultrasound examination and obstetric standards
12 in keeping with established standards of care regarding the estimation of
13 fetal age as defined in rule and shall write the estimate in the patient's
14 medical history. The physician shall keep original prints of each ultrasound
15 examination of a patient in the patient's medical history file.

16 E. The director shall adopt rules relating to the abortion procedure.
17 At a minimum these rules shall require:

18 1. That medical personnel is available to all patients throughout the
19 abortion procedure.

20 2. Standards for the safe conduct of abortion procedures that conform
21 to obstetric standards in keeping with established standards of care
22 regarding the estimation of fetal age as defined in rule.

23 3. Appropriate use of local anesthesia, analgesia and sedation if
24 ordered by the physician.

25 4. The use of appropriate precautions, such as the establishment of
26 intravenous access at least for patients undergoing second or third trimester
27 abortions.

28 5. The use of appropriate monitoring of the vital signs and other
29 defined signs and markers of the patient's status throughout the abortion
30 procedure and during the recovery period until the patient's condition is
31 deemed to be stable in the recovery room.

32 6. That any medication, drug or other substance used to induce an OR
33 CAUSE A MEDICATION abortion, AS DEFINED IN SECTION 36-2151, is administered
34 in compliance with the MIFEPREX FINAL PRINTING LABEL protocol that is
35 ~~authorized~~ APPROVED by the United States food and drug administration and
36 ~~that is outlined in the final printing labeling instructions for that~~
37 ~~medication, drug or substance~~ AND IN EFFECT AS OF DECEMBER 31, 2015.

38 F. The director shall adopt rules that prescribe minimum recovery room
39 standards. At a minimum these rules shall require that:

40 1. For a surgical abortion, immediate postprocedure care, or care
41 provided after inducing a medication abortion, consists of observation in a
42 supervised recovery room for as long as the patient's condition warrants.

43 2. The clinic arrange hospitalization if any complication beyond the
44 management capability of the staff occurs or is suspected.

1 3. A licensed health professional who is trained in the management of
2 the recovery area and is capable of providing basic cardiopulmonary
3 resuscitation and related emergency procedures remains on the premises of the
4 abortion clinic until all patients are discharged.

5 4. For a surgical abortion, a physician with admitting privileges at a
6 health care institution that is classified by the director as a hospital
7 pursuant to section 36-405, subsection B and that is within thirty miles of
8 the abortion clinic remains on the premises of the abortion clinic until all
9 patients are stable and are ready to leave the recovery room and to
10 facilitate the transfer of emergency cases if hospitalization of the patient
11 or viable fetus is necessary. A physician shall sign the discharge order and
12 be readily accessible and available until the last patient is discharged.

13 5. A physician discusses RhO(d) immune globulin with each patient for
14 whom it is indicated and assures it is offered to the patient in the
15 immediate postoperative period or that it will be available to her within
16 seventy-two hours after completion of the abortion procedure. If the patient
17 refuses, a refusal form approved by the department shall be signed by the
18 patient and a witness and included in the medical record.

19 6. Written instructions with regard to postabortion coitus, signs of
20 possible problems and general aftercare are given to each patient. Each
21 patient shall have specific instructions regarding access to medical care for
22 complications, including a telephone number to call for medical emergencies.

23 7. There is a specified minimum length of time that a patient remains
24 in the recovery room by type of abortion procedure and duration of gestation.

25 8. The physician assures that a licensed health professional from the
26 abortion clinic makes a good faith effort to contact the patient by
27 telephone, with the patient's consent, within twenty-four hours after a
28 surgical abortion to assess the patient's recovery.

29 9. Equipment and services are located in the recovery room to provide
30 appropriate emergency resuscitative and life support procedures pending the
31 transfer of the patient or viable fetus to the hospital.

32 G. The director shall adopt rules that prescribe standards for
33 follow-up visits. At a minimum these rules shall require that:

34 1. For a surgical abortion, a postabortion medical visit is offered
35 and, if requested, scheduled for three weeks after the abortion, including a
36 medical examination and a review of the results of all laboratory tests. For
37 a medication abortion, the rules shall require that a postabortion medical
38 visit is scheduled between one week and three weeks after the initial dose of
39 FOR a medication abortion to confirm the pregnancy is completely terminated
40 and to assess the degree of bleeding.

41 2. A urine pregnancy test is obtained at the time of the follow-up
42 visit to rule out continuing pregnancy. If a continuing pregnancy is
43 suspected, the patient shall be evaluated and a physician who performs
44 abortions shall be consulted.

1 H. The director shall adopt rules to prescribe minimum abortion clinic
2 incident reporting. At a minimum these rules shall require that:

3 1. The abortion clinic records each incident resulting in a patient's
4 or viable fetus' serious injury occurring at an abortion clinic and shall
5 report them in writing to the department within ten days after the incident.
6 For the purposes of this paragraph, "serious injury" means an injury that
7 occurs at an abortion clinic and that creates a serious risk of substantial
8 impairment of a major body organ and includes any injury or condition that
9 requires ambulance transportation of the patient.

10 2. If a patient's death occurs, other than a fetal death properly
11 reported pursuant to law, the abortion clinic reports it to the department
12 not later than the next department work day.

13 3. Incident reports are filed with the department and appropriate
14 professional regulatory boards.

15 I. The director shall adopt rules relating to enforcement of this
16 article. At a minimum, these rules shall require that:

17 1. For an abortion clinic that is not in substantial compliance with
18 this article and the rules adopted pursuant to this article or that is in
19 substantial compliance but refuses to carry out a plan of correction
20 acceptable to the department of any deficiencies that are listed on the
21 department's ~~state~~ STATEMENT of deficiency, the department may do any of the
22 following:

- 23 (a) Assess a civil penalty pursuant to section 36-431.01.
- 24 (b) Impose an intermediate sanction pursuant to section 36-427.
- 25 (c) Suspend or revoke a license pursuant to section 36-427.
- 26 (d) Deny a license.
- 27 (e) Bring an action for an injunction pursuant to section 36-430.

28 2. In determining the appropriate enforcement action, the department
29 ~~considers~~ CONSIDER the threat ~~of~~ TO the health, safety and welfare of the
30 abortion clinic's patients or the general public, including:

- 31 (a) Whether the abortion clinic has repeated violations of statutes or
32 rules.
- 33 (b) Whether the abortion clinic has engaged in a pattern of
34 noncompliance.
- 35 (c) The type, severity and number of violations.

36 J. The department shall not release personally identifiable patient or
37 physician information.

38 K. The rules adopted by the director pursuant to this section do not
39 limit the ability of a physician or other health professional to advise a
40 patient on any health issue.

41 Sec. 2. Rulemaking exemption

42 For the purposes of this act, the department of health services is
43 exempt from the rulemaking requirements of title 41, chapter 6, Arizona
44 Revised Statutes, for one year after the effective date of this act.

APPROVED BY THE GOVERNOR MARCH 30, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2016.

Passed the House March 24, 2016,

Passed the Senate February 25, 2016,

by the following vote: 32 Ayes,

by the following vote: 18 Ayes,

26 Nays, 2 Not Voting

10 Nays, 2 Not Voting

[Signature]
Speaker of the House
Pro Tempore

[Signature]
President of the Senate

Jim Drake
Chief Clerk of the House

Susan O'Brien
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28th day of March, 2016

at 7:38 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 30th day of

March, 2016,

at 6:35 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 31 day of March, 2016

at 5:08 o'clock P. M.

[Signature]
Secretary of State

S.B. 1324



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

March 31, 2016

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I signed SB1324.

Previous Arizona law provided flexibility and tied Arizona standards on medication abortion to the FDA standard. Under that law, Arizona law would change as the federal standard changed. But Planned Parenthood filed litigation over this flexibility and forced the hand of the legislature to tie Arizona law to a specific label rather allowing flexibility. It is because of that litigation that we are here today.

At the time SB1324 was passed, the FDA had not updated its label in fifteen years, and there was no indication that an update was imminent. The legislature acted in good faith to deal with litigation brought by an organization that profits from and advocates for expanded access to abortion.

In such a case, I will always stand with those advocating life. I recognize that given the unexpected actions by the FDA, some changes may need to be made in a later bill, and I stand ready to consider those changes when they reach my desk.

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Andy Biggs
The Honorable Kimberly Yee

1700 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007

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