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HOUSE DRH40259-LH-3D (10/03)

Short Title: Clarify & Modify Certain Abortion Laws. (Public)

Sponsors: Representatives Schaffer, McElraft, R. Turner, and S. Martin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY AND MODIFY CERTAIN LAWS PERTAINING TO ABORTION.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 14-45.1 reads as rewritten:

5 "§ 14-45.1. When abortion not unlawful.

6 (a) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be
7 unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a
8 miscarriage or abortion when the procedure is performed by ~~a physician~~ an obstetrician or
9 gynecologist licensed to practice medicine in North Carolina in a hospital or clinic certified by
10 the Department of Health and Human Services to be a suitable facility for the performance of
11 abortions.

12 (b) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be
13 unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a
14 miscarriage or abortion when the procedure is performed by ~~a physician~~ an obstetrician or a
15 gynecologist licensed to practice medicine in North Carolina in a hospital licensed by the
16 Department of Health and Human Services, if there is substantial risk that continuance of the
17 pregnancy would threaten the life or gravely impair the health of the woman.

18 (b1) A physician who advises, procures, or causes a miscarriage or abortion after the
19 sixteenth week of a woman's pregnancy shall record all of the following: the method used by
20 the physician to determine the probable gestational age of the unborn child at the time the
21 procedure is to be performed; the results of the methodology, including the measurements of
22 the unborn child; and an ultrasound image of the unborn child that depicts the measurements.
23 The physician shall provide this information, including the ultrasound image, to the Department
24 of Health and Human Services pursuant to G.S. 14-45.1(c).

25 A physician who procures or causes a miscarriage or abortion after the twentieth week of a
26 woman's pregnancy shall record the findings and analysis on which the physician based the
27 determination that continuance of the pregnancy would threaten the life or gravely impair the
28 health of the woman and shall provide that information to the Department of Health and
29 Human Services pursuant to G.S. 14-45.1(c).

30 The information provided under this subsection shall be for statistical purposes only, and
31 the confidentiality of the patient shall be protected. It is the duty of the physician to submit
32 information to the Department of Health and Human Services that omits identifying
33 information of the patient and complies with HIPPA.

34 (c) The Department of Health and Human Services shall prescribe and collect on an
35 annual basis, from hospitals or ~~clinics~~ clinics, including ambulatory surgical facilities, where



1 abortions are performed, ~~such representative samplings of~~ statistical summary reports
2 concerning the medical and demographic characteristics of the abortions provided for in this
3 ~~section-section, including the information described in subsection (b1) of this section~~ as it shall
4 deem to be in the public interest. Hospitals or clinics where abortions are performed shall be
5 responsible for providing these statistical summary reports to the Department of Health and
6 Human Services. The reports shall be for statistical purposes only and the confidentiality of the
7 patient relationship shall be protected.

8 (d) The requirements of ~~G.S. 130-43~~ G.S. 130A-114 are not applicable to abortions
9 performed pursuant to this section.

10 (e) ~~Nothing in this section shall require a physician licensed to practice medicine in~~
11 ~~North Carolina, any~~ No physician, nurse, or any other health care provider who shall state an
12 objection to abortion on moral, ethical, or religious grounds, grounds shall be required to
13 perform or participate in medical procedures which result in an abortion. The refusal of a
14 physician, nurse, or health care provider to perform or participate in these medical procedures
15 shall not be a basis for damages for the refusal, or for any disciplinary or any other
16 recriminatory action against the physician, nurse, or health care provider. For purposes of this
17 section, the phrase "health care provider" shall have the same meaning as defined under
18 G.S. 90-410(1).

19 (f) Nothing in this section shall require a hospital, other health care institution, or other
20 health care provider to perform an abortion or to provide abortion services."

21 **SECTION 2.** G.S. 90-21.82 reads as rewritten:

22 **"§ 90-21.82. Informed consent to abortion.**

23 No abortion shall be performed upon a woman in this State without her voluntary and
24 informed consent. Except in the case of a medical emergency, consent to an abortion is
25 voluntary and informed only if all of the following conditions are satisfied:

- 26 (1) At least ~~24 hours~~ 72 hours prior to the abortion, a physician or qualified
27 professional has orally informed the woman, by telephone or in person, of all
28 of the following:

29 ...

30 If the physician or qualified professional does not know the information
31 required in sub-subdivisions a., f., or g. of this subdivision, the woman shall
32 be advised that this information will be directly available from the physician
33 who is to perform the abortion. However, the fact that the physician or
34 qualified professional does not know the information required in
35 sub-subdivisions a., f., or g. shall not restart the ~~24-hour~~ 72-hour period. The
36 information required by this subdivision shall be provided in English and in
37 each language that is the primary language of at least two percent (2%) of
38 the State's population. The information may be provided orally either by
39 telephone or in person, in which case the required information may be based
40 on facts supplied by the woman to the physician and whatever other relevant
41 information is reasonably available. The information required by this
42 subdivision may not be provided by a tape recording but shall be provided
43 during a consultation in which the physician is able to ask questions of the
44 patient and the patient is able to ask questions of the physician. If, in the
45 medical judgment of the physician, a physical examination, tests, or the
46 availability of other information to the physician subsequently indicates a
47 revision of the information previously supplied to the patient, then that
48 revised information may be communicated to the patient at any time before
49 the performance of the abortion. Nothing in this section may be construed to
50 preclude provision of required information in a language understood by the
51 patient through a translator.

1 (2) The physician or qualified professional has informed the woman, either by
2 telephone or in person, of each of the following at least ~~24 hours~~ 72 hours
3 before the abortion:

- 4 a. That medical assistance benefits may be available for prenatal care,
5 childbirth, and neonatal care.
6 b. That public assistance programs under Chapter 108A of the General
7 Statutes may or may not be available as benefits under federal and
8 State assistance programs.
9 c. That the father is liable to assist in the support of the child, even if
10 the father has offered to pay for the abortion.
11 d. That the woman has other alternatives to abortion, including keeping
12 the baby or placing the baby for adoption.
13 e. That the woman has the right to review the printed materials
14 described in G.S. 90-21.83, that these materials are available on a
15 State-sponsored Web site, and the address of the State-sponsored
16 Web site. The physician or a qualified professional shall orally
17 inform the woman that the materials have been provided by the
18 Department and that they describe the unborn child and list agencies
19 that offer alternatives to abortion. If the woman chooses to view the
20 materials other than on the Web site, the materials shall either be
21 given to her at least ~~24 hours~~ 72 hours before the abortion or be
22 mailed to her at least 72 hours before the abortion by certified mail,
23 restricted delivery to addressee.
24 f. That the woman is free to withhold or withdraw her consent to the
25 abortion at any time before or during the abortion without affecting
26 her right to future care or treatment and without the loss of any State
27 or federally funded benefits to which she might otherwise be entitled.

28 The information required by this subdivision shall be provided in English
29 and in each language that is the primary language of at least two percent
30 (2%) of the State's population. The information required by this subdivision
31 may be provided by a tape recording if provision is made to record or
32 otherwise register specifically whether the woman does or does not choose
33 to have the printed materials given or mailed to her. Nothing in this
34 subdivision shall be construed to prohibit the physician or qualified
35 professional from e-mailing a Web site link to the materials described in this
36 subdivision or G.S. 90-21.83.

37 "

38 **SECTION 3.** G.S. 90-21.86 reads as rewritten:

39 "**§ 90-21.86. Procedure in case of medical emergency.**

40 When a medical emergency compels the performance of an abortion, the physician shall
41 inform the woman, before the abortion if possible, of the medical indications supporting the
42 physician's judgment that an abortion is necessary to avert her death or that a ~~24 hour~~ 72-hour
43 delay will create a serious risk of substantial and irreversible impairment of a major bodily
44 function, not including psychological or emotional conditions. As soon as feasible, the
45 physician shall document in writing the medical indications upon which the physician relied
46 and shall cause the original of the writing to be maintained in the woman's medical records and
47 a copy given to her."

48 **SECTION 4.** G.S. 116-36.1(d) reads as rewritten:

49 "(d) Trust funds are subject to the oversight of the State Auditor pursuant to Article 5A
50 of Chapter 147 of the General Statutes but are not subject to the provisions of the State Budget
51 Act except ~~for capital~~ as follows:

1 (1) Capital improvements projects which shall be authorized and executed in
2 accordance with G.S. 143C-8-8 and G.S. 143C-8-9.

3 (2) All trust funds shall be subject to G.S. 143C-6-5.5."

4 **SECTION 5.** Article 1 of Chapter 116 of the General Statutes is amended by
5 adding a new section to read:

6 **§ 116-36.7. State medical school departments prohibited from authorizing employees to**
7 **perform abortions.**

8 (a) No department at the medical school at East Carolina University or the University
9 of North Carolina at Chapel Hill shall permit an employee to perform or supervise the
10 performance of an abortion as part of the employee's official duties.

11 (b) The prohibitions in this section shall not apply where (i) the life of the mother
12 would be endangered if the unborn child were carried to term or (ii) the pregnancy is the result
13 of a rape or incest. Nothing in this section shall be construed to limit medical care provided
14 after a spontaneous miscarriage.

15 (c) For purposes of this section, the term abortion is defined the same as in
16 G.S. 90-21.81."

17 **SECTION 6.** G.S. 116-37 is amended by adding the following new subsection to
18 read:

19 "(1) Limitation on use of finances and facilities for abortion. – No moneys of The
20 University of North Carolina Health Care System that are described in subsection (e) of this
21 section may be used for the performance of abortions. No State facility created, owned,
22 controlled, or managed by The University of North Carolina Health Care System may be used
23 for the performance of abortions. The prohibitions in this subsection shall not apply where (i)
24 the life of the mother would be endangered if the unborn child were carried to term or (ii) the
25 pregnancy is the result of a rape or incest. Nothing in this subsection shall be construed to limit
26 medical care provided after a spontaneous miscarriage. For purposes of this subsection, the
27 term abortion is defined the same as in G.S. 90-21.81."

28 **SECTION 7.** G.S. 116-37.2(e) reads as rewritten:

29 "(e) Funds under this section are subject to the oversight of the State Auditor pursuant to
30 Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the
31 State Budget Act ~~except for capital~~ as follows:

32 (1) Capital improvements projects, which shall be authorized and executed in
33 accordance with G.S. 143C-8-8 and G.S. 143C-8-9.

34 (2) All funds under this section are subject to G.S. 143C-6-5.5."

35 **SECTION 8.** If any provision of this act or its application is held invalid, the
36 invalidity does not affect other provisions or applications of this act that can be given effect
37 without the invalid provisions or application, and to this end the provisions of this act are
38 severable. If any provision of this act is temporarily or permanently restrained or enjoined by
39 judicial order, this act shall be enforced as though such restrained or enjoined provisions had
40 not been adopted, provided that whenever such temporary or permanent restraining order or
41 injunction is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have
42 full force and effect.

43 **SECTION 9.** This section and Sections 4, 5, 6, 7, and 8 are effective when this act
44 becomes law. G.S. 14-45.1(b1) and G.S. 14-45.1(c) as enacted by Section 1 of this act become
45 effective January 1, 2016, and apply to abortions performed or attempted on or after January 1,
46 2016. The remainder of this act becomes effective October 1, 2015, and applies to abortions
47 performed or attempted on or after October 1, 2015.