

Arizona Department of Health Services
Response to Records Request
Congress of the United States
House of Representatives
Committee on Energy and Commerce



May 2013



Office of the Director

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JANICE K. BREWER, GOVERNOR
WILL HUMBLE, DIRECTOR

May 24, 2013

Committee on Energy and Commerce
United States House of Representatives
Ford House Office Building
Room 316
Washington, DC 20515-6115
Attn: Majority Staff

Committee on Energy and Commerce
United States House of Representatives
Ford House Office Building
Room 564
Washington, DC 20515-6115
Attn: Minority Staff

RE: Arizona Health Services Abortion Clinic Documents

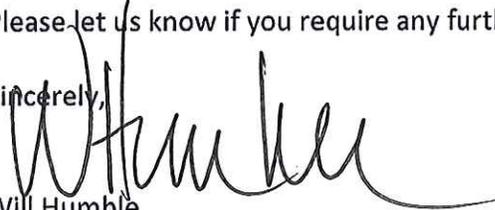
Pursuant to your request dated May 8, 2013, we are providing the requested documents under the purview of the Arizona Department of Health Services. The Department licenses health care institutions, but not medical providers; nor does the Department administer the Child Abuse Prevention and Treatment Act Program mentioned in your request. We have forwarded the request to the Arizona Board of Medical Examiners that licenses Medical Doctors, the Arizona Board of Osteopathic Examiners that licenses Doctors of Osteopathy, and the Arizona Department of Economic Security which oversees Arizona's Child Protective Services.

We have provided the requested information in a binder with answers in separate sections along with any supporting documentation. We have also provided a Table of Contents for easy retrieval of the information. The total page count for the production is 71 pages.

We hope this information is helpful to you in your inquiry.

Please let us know if you require any further information.

Sincerely,


Will Humble
Director

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DISCLAIMER: Information provided for this request relates only to the authority of the Arizona Department of Health Services.

- 1. Does your state license abortion clinics or those facilities and providers who perform abortions? If so, please identify what information must be provided or requirements must be met for a facility or provider to be licensed. In addition, please identify the number of abortion clinics licensed in your state for each year from 2008-2013.*

Arizona does license abortion clinics according to Arizona Revised Statute [36-449](#) and Arizona Administrative Code [R9-10-Article 15](#).

Licensing of abortion clinics as a health care institution classification began November 1, 2010. Even though the law was effective August 6, 1999, implementation of the law was delayed by a legal challenge.

Number of Clinics that Arizona has licensed for each year from 2008-2013

2008 – N/A

2009 – N/A

2010 – 6

2011 – 14

2012 – 10

2013 – 9

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- 2. For the years 2008-2013, please identify each abortion clinic for which your state has suspended or revoked its license and the reason for this action.*

No licensed abortion clinic has had the license suspended or revoked by the Arizona Department of Health Services.

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3. *Does your state conduct inspections of abortion clinics or facilities that perform abortions? If so, please identify the number of clinics that your state has inspected for each year from 2008-2013. In addition, please identify how an inspection is conducted and what information is examined in the course of an inspection.*

Arizona Revised Statute [36-425](#) requires the Arizona Department of Health Services to conduct a compliance inspection of a health care institution to determine compliance at least once during each license period using Arizona Administrative Code [R9-10-Article 15](#) as the licensing rules. The license period is 12 months unless otherwise stated. [A.R.S. 36-425.E](#) allows the Department to “After the initial license period ends and after the department determines the facility to be deficiency free on a compliance survey, the department shall not conduct a compliance survey of that facility for twenty-four months from the date of the deficiency free survey. This subsection does not prohibit the department from enforcing licensing requirements as authorized by [A.R.S. 36-424.](#)”

Number of Clinics that Arizona has inspected for each year from 2008-2013:

2008 – None

2009 – None

2010 – Initial 6

2011 – Initial 8

2012 – Initial 1, Compliance 12

2013 – To date, Compliance 1

Compliance inspection is conducted by a trained RN surveyor knowledgeable of women’s health practice. Initial licensing and compliance inspections are conducted on a date and time agreed to by the licensee and the Department that is no later than 10 business days after the Department submits a written request to the licensee to schedule the initial licensing or compliance inspection, unless the Department agrees to a later date and time. Initial licensing and compliance inspection to the abortion clinic licensing rules is evaluated through on site observations, interviews and record reviews. Findings that indicate failure to comply with the licensing rules for Abortion Clinics found in [A.A.C. R9-10-Article 15](#) are documented and issued to the licensee in a statement of deficiencies that requires a plan of correction be submitted within 14 calendar days from the date the statement of deficiencies is issued. All plans of correction are reviewed to evaluate for compliance to the licensing rules and accepted by the Department as a means to correct the deficiency and sustain compliance. The Department has authority to take enforcement actions as written in [A.R.S. 36-431](#), which stating that the Director may assess a civil penalty not to exceed five hundred dollars for each violation. Each day that the violation occurs constitutes a separate violation.

Arizona Revised Statutes and Arizona Administrative code referenced in the answers are provided in final tab.

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4. *Does your state monitor complaints or adverse health events relating to abortions? If so, how are these complaints filed or processed? How many complaints relating to abortions or abortion clinics have been filed for each year from 2008-2013?*
- A. *Please explain how your state investigates the complaints it receives relating to abortions. In addition, please explain how many investigations, including those that included inspections of abortion clinics, have resulted from complaints filed for each year from 2008-2013.*

Arizona accepts verbal and online complaints alleging a health care institution's failure to adhere to state licensing requirements.

In addition, [A.A.C. R9-10-1504](#) requires a licensee to notify the Department of an incident as follows:

- A. Death of a patient, verbal notification the next working day; and
- B. A serious injury, written notification within 10 calendar days from the date of the serious injury.

Arizona accepts verbal and online complaints alleging a health care institution's failure to adhere to state licensing requirements.

Complaint investigation is conducted by a trained RN surveyor knowledgeable of women's health. A complaint investigation is conducted at an abortion clinic upon presentation of an administrative search warrant authorizing the inspection of the abortion clinic. The complaint investigation evaluates whether the allegations are in violation of the abortion clinic licensing rules. The investigation consists of on-site observations, interviews and record reviews. Findings that indicate failure to comply with the licensing rules for Abortion Clinics found in [A.A.C. R9-10-Article 15](#) are documented and issued to the licensee in a statement of deficiencies that requires a plan of correction be submitted and accepted by the Department. The Department has authority to take enforcement actions as written in [A.R.S. 36-431](#), which states that the Director may assess a civil penalty not to exceed five hundred dollars for each violation. Each day that a violation occurs constitutes a separate violation.



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Complaints relating to abortions or abortion clinics filed for each year from 2008 – 2013:

2008 – N/A

2009 – N/A

2010 – N/A

2011 – 2 (unlicensed facility when facility was in process of licensing)

2012 – Year in progress

2013 – Year in progress

Complaints are reviewed and evaluated for reasonable cause to believe a health care institution is not adhering to the licensing requirements. If it is determined that there is reasonable cause to believe the health care institution is not adhering to the licensing rules, the Department triages the complaint based on established triage criteria outlined in Department policy and procedure. For an Abortion Clinic complaint investigation, the Department must obtain an administrative search warrant before entering the facility to conduct an unannounced complaint investigation. (A.A.C. R9-10-1503.B.4)

Investigations, including those that included inspections of abortion clinics, resulted from complaints filed for each year from 2008 – 2013:

2008 – N/A

2009 – N/A

2010 – 0

2011 – 0

2012 – 0

2013 – 0

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5. *Please explain whether your state, including state professional licensure boards, has initiated any disciplinary actions against facilities or health care providers relating to abortions? Please identify the number of disciplinary actions taken in each year from 2008-2013 and the underlying violation or reason for the action.*

The Arizona Department of Health Services, Division of Public Health Licensing has the authority to regulate health care institutions only. Based on this jurisdiction, the Department has taken enforcement action on one licensed abortion clinic:

Camelback Family Planning – November 28, 2012

Disciplinary actions taken and the underlying violation or reason for the action in each year from 2008 – 2013:

2008 – N/A

2009 – N/A

2010 – 0

2011 – 0

2012 – 1 Camelback Family Planning – Enforcement Action

2013 – 0

Underlying action and reason for the action – Camelback Family Planning:

Rule violation in administration, infection control, expired medications and supplies

ADHS entered into an enforcement agreement with the facility as follows:

- Licensee understands that the facility is subject to frequent monitoring visits by the Department
- Licensee will return the original Statement of Deficiencies with the signed and dated acceptable Plan of Correction to the Department within 10 working days of receipt of this agreement
- Licensee agrees to pay civil money penalties in the amount of \$2,000.00
- Licensee understands to not be in substantial compliance could result in further enforcement action up to and including revocation of the provider's license

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6. *Please provide copies of the rules and regulations that govern facilities and licensed health care providers in your state that perform abortions, including the rules and regulations that specifically govern how abortions are conducted in your state.*

A. *Which of these laws is your agency tasked with enforcing and how do you enforce them?*

Arizona Revised Statute 36, Chapter 20-Abortion, (A.R.S. 36-2151, et sq)

Arizona Revised Statute 36, Chapter 4 Health Care Institutions, Article 10-Abortion Clinics (A.R.S. 36-449, et sq)

Arizona Administrative Code Title 9, Chapter 10, Article 15-Abortion Clinics (A.A.C. R9-10-15)

Our agency is tasked with enforcing /enforces by: A.R.S. 36-449 and A.A.C. R9-10-Article 15

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7. *On April 19, 2005, the Assistant Secretary for Children and Families issued a Program Instruction to state agencies administering the Child Abuse Prevention and Treatment Act (CAPTA) program. The instruction requires states to have procedures for responding to reports of medical neglect (including the withholding of medically indicated treatment from disabled infants with life-threatening conditions), and applies those protections equally to born-alive infants.*
- A. *What actions has your state taken since 2005 to ensure that, at every licensed health care facility that provides abortions, there is a designated individual to report suspected medical neglect (including withholding of medically indicated treatment from disabled infants with life-threatening conditions) of born-alive infants to the state child protective services agency? Has the state received any such notifications; and what were the outcomes?*
- B. *Does your state child protective services agency annually contact each health care facility to obtain purpose of coordination, consultation, and notification pursuant to 45 C.F.R.1340.15? Does this contact include health care facilities that provide abortions? Please provide a list of all such designation.*
- A. Clinics must follow all state and federal laws as outlined in [A.A.C. R9-10-1503](#). In Arizona, Child Protective Services is under the administration of the Department of Economic Security (response attached).
- B. In Arizona, Child Protective Services is under the administration of the Department of Economic Security (response attached).



- 7a. What actions has your state taken since 2005 to ensure that, at every licensed health care facility that provides abortions, there is a designated individual to report suspected medical neglect (including withholding of medically indicated treatment from disabled infants with life-threatening conditions) of born-alive infants to the state child protective services agency? Has the state received any such notification and what were the outcomes?

Response: Arizona Revised Statutes (A.R.S.) § 13-3620 (A) requires that "any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a *denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant* who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services (CPS) in the Department of Economic Security." Additionally, this statute defines persons who are mandated reporters of abuse to include any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.

For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer or CPS worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services worker.

Therefore, Arizona designates any health professional who knows or suspects that a born-alive infant who has been denied or deprived of medically indicated treatment to make a report to CPS or law enforcement.

When the Arizona Child Abuse Hotline receives a report of abuse or neglect it prioritizes the report and assigns to a CPS field investigative unit for investigation. The outcomes vary depending upon the results of the investigation and the response to any interventions offered or provided. All medical institutions are required to report medical neglect of a newborn infant, of which CPS has received reports; however the outcomes are numerous, as each case results in a different response from the parents or caregivers to the types of services and interventions offered.

- 7b. Does your state child protective services agency annually contact each health care facility to obtain purpose of coordination, consultation, and notification pursuant to 45 C.F.R. § 1340.15? Does this contact include health care facilities that provide abortions? Please provide a list of all such designations.



Response: The Comprehensive Medical and Dental Program (CMDP) is the Medicaid health care plan for Arizona's foster care population. CMDP notifies all of its providers and provider agencies of the purpose of coordination, consultation and notification through its Provider Services Manual, Provider Services unit and collaboration with medical providers to provide mandatory reporter training. Ongoing and regular collaboration and work with the Arizona Chapter of the American Academy of Pediatrics reinforces this communication and coordination of these requirements to medical practitioners throughout the state. Arizona law requires that all medical practitioners report suspected abuse, neglect, and medical neglect immediately to the Child Abuse Hotline.

Pregnancy termination is not a covered service under Arizona's Medicaid system overseen by the Arizona Health Care Cost Containment System (AHCCCS) except when specific criteria are met. This is a covered serve only when:

1. The physician certifies that in his/her professional judgment, that the pregnant member suffers one or more of the following criteria are met:
 - a. The pregnant member suffers from a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the member in danger of death unless the pregnancy is terminated,
 - b. The pregnancy is a result of rape or incest, or
 - c. The pregnancy termination is medically necessary according to the medical judgment of a licensed physician who attests that continuation of the pregnancy could reasonably be expected to pose a serious physical or mental health problem for the pregnant member by:
 - creating a serious physical or mental health problem for the pregnant member,
 - seriously impairing a bodily function of the pregnant member,
 - causing dysfunction of a bodily organ or part of the pregnant member,
 - exacerbating a health problem of the pregnant member, or
 - preventing the pregnant member from obtaining treatment for a health problem.
2. In the case of rape or incest, the incident must have been reported to proper authorities and documented. The documentation must include name of agency, report number and date report was filed.
3. In the event of endangerment to the mother, documentation to substantiate the medical necessity for the procedure, including the Certificate of Necessity for Pregnancy Termination, must be provided.
4. The parent or legal guardian must have granted written consent to the termination procedure OR a court must have ordered the procedure.

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Arizona Revised Statutes:

Title 13 Criminal Code:

Chapter 36 Family Offenses:

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, christian science practitioner or priest who has received a confidential communication or a confession in that person's role as a member of the clergy, christian science practitioner or a priest in the course of the discipline enjoined by the church to which the member of the clergy, christian science practitioner or priest belongs may withhold reporting of the communication or confession if the member of the clergy, christian science practitioner or priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, christian science practitioner or priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
2. Any peace officer, member of the clergy, priest or christian science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment.
5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section for conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

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D. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The reports shall contain:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor, if known.
2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When telephone or in-person reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to them. Notwithstanding any other statute, when child protective services receives these reports by telephone or in person, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:



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1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.

2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.

3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or child protective services in the department of economic security.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. Nothing in this subsection discharges a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.

2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, upon application of a peace officer or child protective services worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer or child protective services worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For the purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.

2. "Child abuse" means child abuse pursuant to section 13-3623.

3. "Neglect" has the same meaning prescribed in section 8-201.

4. "Reportable offense" means any of the following:

(a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.

(b) Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to section 13-3019.

(c) Child prostitution pursuant to section 13-3212.

(d) Incest pursuant to section 13-3608.



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Arizona Revised Statutes:

Title 36 Public Health and Safety:

Chapter 4 Health Care Institutions:

Article 2 License Provisions

36-424. Inspections; suspension or revocation of license; report to board of examiners of nursing care institution administrators

A. Every applicant for initial licensure or relicensure as a health care institution shall submit to the director a properly completed application for a license accompanied by the necessary fee.

B. Subject to the limitation prescribed by subsection C of this section, the director shall inspect the premises of the health care institution and investigate the character and other qualifications of the applicant to ascertain whether the applicant and the health care institution are in substantial compliance with the requirements of this chapter and the rules established pursuant to this chapter. The director may prescribe rules regarding department background investigations into an applicant's character and qualifications.

C. The director shall accept proof that a health care institution is an accredited hospital or is an accredited health care institution in lieu of all compliance inspections required by this chapter if the director receives a copy of the institution's accreditation report for the licensure period. If the health care institution's accreditation report is not valid for the entire licensure period, the department may conduct a compliance inspection of the health care institution during the time period the department does not have a valid accreditation report for the health care institution.

D. On a determination by the director that there is reasonable cause to believe a health care institution is not adhering to the licensing requirements of this chapter, the director and any duly designated employee or agent of the director, including county health representatives and county or municipal fire inspectors, consistent with standard medical practices, may enter on and into the premises of any health care institution that is licensed or required to be licensed pursuant to this chapter at any reasonable time for the purpose of determining the state of compliance with this chapter, the rules adopted pursuant to this chapter and local fire ordinances or rules. Any application for licensure under this chapter constitutes permission for and complete acquiescence in any entry or inspection of the premises during the pendency of the application and, if licensed, during the term of the license. If an inspection reveals that the health care institution is not adhering to the licensing requirements established pursuant to this chapter, the director may take action authorized by this chapter. Any health care institution, including an accredited hospital, whose license has been suspended or revoked in accordance with this section is subject to inspection on application for relicensure or reinstatement of license.

E. The director shall immediately report to the board of examiners of nursing care institution administrators information identifying that a nursing care institution administrator's conduct may be grounds for disciplinary action pursuant to section 36-446.07.



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**Arizona Revised Statutes:
Title 36 Public Health and Safety:
Chapter 4 Health Care Institutions:
Article 2 License Provisions**

36-425. Inspections; issuance of license; posting of deficiencies; provisional license; denial of license

A. On receipt of a properly completed application for initial licensure, the director shall conduct an inspection of the health care institution as prescribed by this chapter. If an application for an initial license is submitted due to a planned change of ownership, the director shall determine the need for an inspection of the health care institution. Based on the results of the inspection, the director shall either deny the license or issue a regular or provisional license. A license issued by the department shall be conspicuously posted in the reception area of that institution. Unless the health care institution is an accredited hospital at the time of licensure, an initial license is valid for one year after the date the initial license is issued. If the health care institution is an accredited hospital at the time of licensure, the licensure term is three years from the expiration date of the hospital's current license, or in the case of an initial license based on a change of ownership, the licensure term is three years beginning on the effective date of the hospital's current accreditation.

B. The director shall issue an initial license if the director determines that an applicant and the health care institution for which the license is sought substantially comply with the requirements of this chapter and rules adopted pursuant to this chapter and the applicant agrees to carry out a plan acceptable to the director to eliminate any deficiencies. The director shall not require a health care institution that was designated as a critical access hospital to make any modifications required by this chapter or rules adopted pursuant to this chapter in order to obtain an amended license with the same licensed capacity the health care institution had before it was designated as a critical access hospital if all of the following are true:

1. The health care institution has subsequently terminated its critical access hospital designation.
2. The licensed capacity of the health care institution does not exceed its licensed capacity prior to its designation as a critical access hospital.
3. The health care institution remains in compliance with the applicable codes and standards that were in effect at the time the facility was originally licensed with the higher licensed capacity.

C. On receipt of an application for a renewal of a health care institution's license that complies with the requirements of this chapter and rules adopted pursuant to this chapter, the department shall issue a renewal license to the health care institution. An accredited hospital's renewal license is valid for three years after the expiration date of the accredited hospital's current license. All other health care institution renewal licenses are valid for one year after the expiration date of the health care institution's current license.

D. Except as provided in section 36-424, subsection C and subsection E of this section, the department shall conduct a compliance inspection of a health care institution to determine compliance with this chapter and rules adopted pursuant to this chapter at least once during each license period.

E. After the initial license period ends and after the department determines a facility to be deficiency free on a compliance survey, the department shall not conduct a compliance survey of that facility for twenty-four months from the date of the deficiency free survey. This subsection does not prohibit the department from enforcing licensing requirements as authorized by section 36-424.



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F. A hospital licensed as a rural general hospital may provide intensive care services.

G. The director shall issue a provisional license for a period of not more than one year if an inspection or investigation of a currently licensed health care institution or a health care institution for which an applicant is seeking initial licensure reveals that the institution is not in substantial compliance with department licensure requirements and the director believes that the immediate interests of the patients and the general public are best served if the institution is given an opportunity to correct deficiencies. The applicant or licensee shall agree to carry out a plan to eliminate deficiencies that is acceptable to the director. The director shall not issue consecutive provisional licenses to a single health care institution. The director shall not issue a license to the current licensee or a successor applicant before the expiration of the provisional license unless the health care institution submits an application for a substantial compliance survey and is found to be in substantial compliance. The director may issue a license only if the director determines that the institution is in substantial compliance with the licensure requirements of the department and this chapter. This subsection does not prevent the director from taking action to protect the safety of patients pursuant to section 36-427.

H. Subject to the confidentiality requirements of articles 4 and 5 of this chapter, title 12, chapter 13, article 7.1 and section 12-2235, the licensee shall keep current department inspection reports at the health care institution. Unless federal law requires otherwise, the licensee shall conspicuously post a notice that identifies the location at that institution where the inspection reports are available for review.

I. A health care institution shall immediately notify the department in writing when there is a change of the chief administrative officer specified in section 36-422, subsection A, paragraph 7.

J. When the department issues an original license or an original provisional license to a health care institution, it shall notify the owners and lessees of any agricultural land within one-fourth mile of the health care institution. The health care institution shall provide the department with the names and addresses of owners or lessees of agricultural land within one-fourth mile of the proposed health care institution.

K. In addition to the grounds for denial of licensure prescribed pursuant to subsection A of this section, the director may deny a license because an applicant or anyone in a business relationship with the applicant, including stockholders and controlling persons, has had a license to operate a health care institution denied, revoked or suspended or a license or certificate issued by a health profession regulatory board pursuant to title 32 or issued by a state agency pursuant to chapter 6, article 7 or chapter 17 of this title denied, revoked or suspended or has a licensing history of recent serious violations occurring in this state or in another state that posed a direct risk to the life, health or safety of patients or residents.

L. In addition to the requirements of this chapter, the director may prescribe by rule other licensure requirements and may prescribe procedures for conducting investigations into an applicant's character and qualifications.



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**Arizona Revised Statutes:
Title 36 Public Health and Safety:
Chapter 4 Health Care Institutions:
Article 2 License Provisions**

36-431. Violation; classification

A. A person is guilty of a class 3 misdemeanor who:

1. Establishes, operates or maintains any class or subclass of health care institution, as defined in this chapter, unless the person holds a current and valid license for such class or subclass from the department.
2. Knowingly violates any provision of this chapter unless another classification is specifically prescribed in this chapter.

B. Each day that a violation continues shall constitute a separate violation.

36-431.01. Violations; civil penalties

A. The director may assess a civil penalty against a person who violates this chapter or a rule adopted pursuant to this chapter in an amount of not to exceed five hundred dollars for each violation. Each day that a violation occurs constitutes a separate violation.

B. The director may issue a notice of assessment that shall include the proposed amount of the assessment. A person may appeal the assessment by requesting a hearing pursuant to title 41, chapter 6, article 10. When an assessment is appealed, the director shall take no further action to enforce and collect the assessment until after the hearing.

C. In determining the civil penalty pursuant to subsection A of this section, the department shall consider the following:

1. Repeated violations of statutes or rules.
2. Patterns of noncompliance.
3. Types of violations.
4. Severity of violations.
5. Potential for and occurrences of actual harm.
6. Threats to health and safety.
7. Number of persons affected by the violations.
8. Number of violations.
9. Size of the facility.
10. Length of time that the violations have been occurring.

D. Pursuant to interagency agreement specified in section 36-409, the director may assess a civil penalty, including interest, in accordance with 42 United States Code section 1396r. A person may appeal this assessment by requesting a hearing before the director in accordance with subsection B of this section. Civil penalty amounts may be established by rules adopted by the director that conform to guidelines or regulations adopted by the secretary of the United States department of health and human services pursuant to 42 United States Code section 1396r.

E. Actions to enforce the collection of penalties assessed pursuant to subsections A and D of this section shall be brought by the attorney general or the county attorney in the name of the state in the justice court or the superior court in the county in which the violation occurred.



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F. Penalties assessed under subsection D of this section are in addition to and not in limitation of other penalties imposed pursuant to this chapter. All civil penalties and interest assessed pursuant to subsection D of this section shall be deposited in the nursing care institution resident protection revolving fund established by section 36-431.02. The director shall use these monies for the purposes prescribed by 42 United States Code section 1396r, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of the deficiencies or closure and reimbursement of residents for personal monies lost.

G. The department shall transmit penalties assessed under subsection A of this section to the state general fund.

36-431.02. Nursing care institution resident protection revolving fund; use; nonreversion

A. The nursing care institution resident protection revolving fund is established. The fund consists of monies received from civil penalties collected by the director pursuant to section 36-431.01, subsection D.

B. The director shall use monies in the fund for the purposes prescribed in section 36-431.01, subsection F, subject to legislative appropriation.

C. Monies in the fund are exempt from the provisions of section 35-190 relating to the lapsing of appropriations.



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Arizona Revised Statutes:

Title 36 Public Health and Safety:

Chapter 4 Health Care Institutions:

Article 10 Abortion Clinics

36-449.01. Definitions

In this article, unless the context otherwise requires:

1. "Abortion" means the use of any means with the intent to terminate a woman's pregnancy for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Abortion does not include birth control devices or oral contraceptives.
2. "Abortion clinic" means a facility, other than a hospital, in which five or more first trimester abortions in any month or any second or third trimester abortions are performed.
3. "Director" means the director of the department of health services.
4. "Medication abortion" means the use of any medication, drug or other substance that is intended to cause or induce an abortion.
5. "Perform" includes the initial administration of any medication, drug or other substance intended to cause or induce an abortion.
6. "Surgical abortion" has the same meaning prescribed in section 36-2151.
7. "Viable fetus" has the same meaning prescribed in section 36-2301.01.

36-449.02. Abortion clinics; licensure requirements; rules

- A. Beginning on April 1, 2000, an abortion clinic shall meet the same licensure requirements as prescribed in article 2 of this chapter for health care institutions.
- B. An abortion clinic that holds an unclassified health care facility license issued before the effective date of this article may retain that classification until April 1, 2000 subject to compliance with all laws that relate to unclassified health care facilities.
- C. Beginning on April 1, 2000, abortion clinics shall comply with department requirements for abortion clinics and department rules that govern abortion clinics.

36-449.03. Abortion clinics; rules; civil penalties

- A. The director shall adopt rules for an abortion clinic's physical facilities. At a minimum these rules shall prescribe standards for:
 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 for preprocedure hand washing.
 5. Private procedure rooms.
 6. Adequate lighting and ventilation for abortion procedures.
 7. Surgical or gynecologic examination tables and other fixed equipment.
 8. Postprocedure recovery rooms that are supervised, staffed and equipped to meet the patients' needs.
 9. Emergency exits to accommodate a stretcher or gurney.



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10. Areas for cleaning and sterilizing instruments.

11. Adequate areas for the secure storage of medical records and necessary equipment and supplies.

12. 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.

B. The director shall adopt rules to prescribe abortion clinic supplies and equipment standards, including supplies and equipment that are required to be immediately available for use or in an emergency. At a minimum these rules shall:

1. Prescribe required equipment and supplies, including medications, required for the conduct, in an appropriate fashion, of any abortion procedure that the medical staff of the clinic anticipates performing and for monitoring the progress of each patient throughout the procedure and recovery period.

2. Require that the number or amount of equipment and supplies at the clinic is adequate at all times 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 laboratory equipment at the abortion clinic or operated by clinic staff.

5. Require ultrasound equipment.

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

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

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

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

3. A physician is available:

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

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

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

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

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

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

1. A medical history, including the following:

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

(b) Obstetric and gynecologic history.

(c) Past surgeries.

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

3. The appropriate laboratory tests, including:

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

(b) A test for anemia.

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

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

4. An ultrasound evaluation for all patients. 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 in 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 probable gestational age of the fetus.

5. That 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 write the 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.

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

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

2. Standards 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 as defined in rule.

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

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

5. 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. That any medication, drug or other substance used to induce an abortion is administered in compliance with the protocol that is authorized by the United States food and drug administration and that is outlined in the final printing labeling instructions for that medication, drug or substance.

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

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



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2. The clinic arrange hospitalization if any complication beyond the management capability of the staff 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 remains on the premises of the abortion clinic until all patients are discharged.
 4. For a surgical abortion, a physician with admitting privileges at a health care institution that is classified by the director as a hospital pursuant to section 36-405, subsection B and that is 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 to facilitate the transfer of emergency cases if hospitalization of the patient or viable fetus is necessary. A physician shall sign the discharge order and be readily accessible and available until the last patient is discharged.
 5. A physician discusses RhO(d) immune globulin with each patient for whom it is indicated and assures it is offered to the patient in the immediate postoperative 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 shall be signed by the patient and a witness and included in the medical record.
 6. Written instructions with regard to postabortion coitus, signs of possible problems and general aftercare are given to each patient. Each patient shall have specific instructions regarding access to medical care for complications, including a telephone number to call for medical emergencies.
 7. 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.
 8. The physician assures that a licensed health 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 a surgical abortion to assess the patient's recovery.
 9. 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 viable fetus to the hospital.
- G. The director shall adopt rules that prescribe standards for follow-up visits. At a minimum these rules shall require that:
1. For a surgical abortion, a postabortion medical visit is offered and, if requested, scheduled for three weeks after the abortion, including a medical examination and a review of the results of all laboratory tests. For a medication abortion, the rules shall require that a postabortion medical visit is scheduled between one week and three weeks after the initial dose of a medication abortion to confirm the pregnancy is completely terminated and to assess the degree of bleeding.
 2. A urine pregnancy test is obtained at the time of 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 abortions shall be consulted.
- H. The director shall adopt rules to prescribe minimum abortion clinic incident reporting. At a minimum these rules shall require that:
1. The abortion clinic records each incident resulting in a patient's or viable fetus' serious injury occurring at an abortion clinic and shall report them in writing to the department within ten days after the incident. For the purposes of this paragraph, "serious injury" means an injury that occurs at an



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abortion clinic and that creates a serious risk of substantial impairment of a major body organ and includes any injury or condition that requires ambulance transportation of the patient.

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

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

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

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

(a) Assess a civil penalty pursuant to section 36-431.01.

(b) Impose an intermediate sanction pursuant to section 36-427.

(c) Suspend or revoke a license pursuant to section 36-427.

(d) Deny a license.

(e) Bring an action for an injunction pursuant to section 36-430.

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

(a) Whether the abortion clinic has repeated violations of statutes or rules.

(b) Whether the abortion clinic has engaged in a pattern of noncompliance.

(c) The type, severity and number of violations.

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

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



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**Arizona Revised Statutes:
Title 36 Public Health and Safety:
Chapter 20 Abortion:
Article 1 General Provisions**

36-2151. Definitions

In this article, unless the context otherwise requires:

1. "Abortion" means the use of any means to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. Abortion does not include birth control devices, oral contraceptives used to inhibit or prevent ovulation, conception or the implantation of a fertilized ovum in the uterus or the use of any means to save the life or preserve the health of the unborn child, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus.
2. "Auscultation" means the act of listening for sounds made by internal organs of the unborn child, specifically for a heartbeat, using an ultrasound transducer and fetal heart rate monitor.
3. "Conception" means the fusion of a human spermatozoon with a human ovum.
4. "Gestational age" means the age of the unborn child as calculated from the first day of the last menstrual period of the pregnant woman.
5. "Health professional" has the same meaning prescribed in section 32-3201.
6. "Medical emergency" means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.
7. "Medication abortion" means the use of any medication, drug or other substance that is intended to cause or induce an abortion.
8. "Physician" means a person who is licensed pursuant to title 32, chapter 13 or 17.
9. "Pregnant" or "pregnancy" means a female reproductive condition of having a developing unborn child in the body and that begins with conception.
10. "Probable gestational age" means the gestational age of the unborn child at the time the abortion is planned to be performed and as determined with reasonable probability by the attending physician.
11. "Surgical abortion" means the use of a surgical instrument or a machine to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. Surgical abortion does not include the use of any means to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Surgical abortion does not include patient care incidental to the procedure.
12. "Ultrasound" means the use of ultrasonic waves for diagnostic or therapeutic purposes to monitor a developing unborn child.
13. "Unborn child" means the offspring of human beings from conception until birth.



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36-2152.

Parental consent; exception; hearings; time limits; violation; classification; civil relief; statute of limitations

A. In addition to the other requirements of this chapter, a person shall not knowingly perform an abortion on a pregnant unemancipated minor unless the attending physician has secured the written and notarized consent from one of the minor's parents or the minor's guardian or conservator or unless a judge of the superior court authorizes the physician to perform the abortion pursuant to subsection B of this section. Notwithstanding section 41-319, the notarized statement of parental consent and the description of the document or notarial act recorded in the notary journal are confidential and are not public records.

B. A judge of the superior court, on petition or motion, and after an appropriate hearing, shall authorize a physician to perform the abortion if the judge determines that the pregnant minor is mature and capable of giving informed consent to the proposed abortion. If the judge determines that the pregnant minor is not mature or if the pregnant minor does not claim to be mature, the judge shall determine whether the performance of an abortion on her without the consent from one of her parents or her guardian or conservator would be in her best interests and shall authorize a physician to perform the abortion without consent if the judge concludes that the pregnant minor's best interests would be served.

C. If the pregnant minor claims to be mature at a proceeding held pursuant to subsection B of this section, the minor must prove by clear and convincing evidence that she is sufficiently mature and capable of giving informed consent without consulting her parent or legal guardian based on her experience level, perspective and judgment. In assessing the pregnant minor's experience level, the court may consider, among other relevant factors, the minor's age and experiences working outside the home, living away from home, traveling on her own, handling personal finances and making other significant decisions. In assessing the pregnant minor's perspective, the court may consider, among other relevant factors, what steps the minor took to explore her options and the extent to which she considered and weighed the potential consequences of each option. In assessing the pregnant minor's judgment, the court may consider, among other relevant factors, the minor's conduct since learning of her pregnancy and her intellectual ability to understand her options and to make an informed decision.

D. The pregnant minor may participate in the court proceedings on her own behalf. The court shall appoint a guardian ad litem for her. The court shall advise her that she has the right to court appointed counsel and, on her request, shall provide her with counsel unless she appears through private counsel or she knowingly and intelligently waives her right to counsel.

E. Proceedings in the court under this section are confidential and have precedence over other pending matters. Members of the public shall not inspect, obtain copies of or otherwise have access to records of court proceedings under this section unless authorized by law. A judge who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a confidential record of the evidence to be maintained, including the judge's



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own findings and conclusions. The minor may file the petition using a fictitious name. For purposes of this subsection, public does not include judges, clerks, administrators, professionals or other persons employed by or working under the supervision of the court or employees of other public agencies who are authorized by state or federal rule or law to inspect and copy closed court records.

F. The court shall hold the hearing and shall issue a ruling within forty-eight hours, excluding weekends and holidays, after the petition is filed. If the court fails to issue a ruling within this time period, the petition is deemed to have been granted and the consent requirement is waived.

G. An expedited confidential appeal is available to a pregnant minor for whom the court denies an order authorizing an abortion without parental consent. The appellate court shall hold the hearing and issue a ruling within forty-eight hours, excluding weekends and holidays, after the petition for appellate review is filed. Filing fees are not required of the pregnant minor at either the trial or the appellate level.

H. Parental consent or judicial authorization is not required under this section if either:

1. The pregnant minor certifies to the attending physician that the pregnancy resulted from sexual conduct with a minor by the minor's parent, stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or foster parent or by a person who lives in the same household with the minor and the minor's mother. The physician performing the abortion shall report the sexual conduct with a minor to the proper law enforcement officials pursuant to section 13-3620 and shall preserve and forward a sample of the fetal tissue to these officials for use in a criminal investigation.

2. The attending physician certifies in the pregnant minor's medical record that, on the basis of the physician's good faith clinical judgment, the pregnant minor has a condition that so complicates her medical condition as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

I. A person who performs an abortion in violation of this section is guilty of a class 1 misdemeanor. A person is not subject to any liability under this section if the person establishes by written evidence that the person relied on evidence sufficient to convince a careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this section are true.

J. In addition to other remedies available under the common or statutory law of this state, one or both of the minor's parents or the minor's guardian may bring a civil action in the superior court in the county in which the parents or the guardian resides to obtain appropriate relief for a violation of this section, unless the pregnancy resulted from the criminal conduct of the parent or guardian. The civil action may be based on a claim that failure to obtain consent was a result of simple negligence, gross negligence, wantonness, wilfulness, intention or any other legal standard of care. The civil action may be brought against the person who performs the abortion in violation of this section and any person who causes, aids or assists a minor to obtain an abortion without meeting the requirements of this section. Relief pursuant to this subsection includes the following:



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1. Money damages for all psychological, emotional and physical injuries that result from the violation of this section.

2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.

3. Reasonable attorney fees and costs.

K. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.

L. The consent required by this section must be obtained on a form prescribed by the department of health services. At a minimum, the form must:

1. List the possible medical risks that may occur with any surgical, medical or diagnostic procedure, including the potential for infection, blood clots, hemorrhage, allergic reactions and death.

2. List the possible medical risks that may occur with a surgical abortion, including hemorrhage, uterine perforation, sterility, injury to the bowel or bladder, a possible hysterectomy as a result of a complication or injury during the procedure and failure to remove all products of conception that may result in an additional procedure.

3. List the possible medical risks that may occur with a medication abortion, including hemorrhage, infection, failure to remove all products of conception that may result in an additional procedure, sterility and the possible continuation of the pregnancy.

4. Require the pregnant minor's and the pregnant minor's parent's initials on each page of the form and a full signature on the final page of the form.

5. Include a space for the notary's signature and seal on the final page of the form.

M. The physician must maintain the form in the pregnant minor's records for seven years after the date of the procedure or five years after the date of the minor's maturity, whichever is longer.

36-2153.

Informed consent; requirements; information; website; signs; violation; civil relief; statute of limitations

A. An abortion shall not be performed or induced without the voluntary and informed consent of the woman on whom the abortion is to be performed or induced. Except in the case of a medical emergency and in addition to the other requirements of this chapter, consent to an abortion is voluntary and informed only if all of the following are true:



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1. At least twenty-four hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of:

- (a) The name of the physician who will perform the abortion.
- (b) The nature of the proposed procedure or treatment.
- (c) The immediate and long-term medical risks associated with the procedure that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.
- (d) Alternatives to the procedure or treatment that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.
- (e) The probable gestational age of the unborn child at the time the abortion is to be performed.
- (f) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.
- (g) The medical risks associated with carrying the child to term.

2. At least twenty-four hours before the abortion, the physician who is to perform the abortion, the referring physician or a qualified physician, physician assistant, nurse, psychologist or licensed behavioral health professional to whom the responsibility has been delegated by either physician has informed the woman, orally and in person, that:

- (a) Medical assistance benefits may be available for prenatal care, childbirth and neonatal care.
- (b) The father of the unborn child is liable to assist in the support of the child, even if he has offered to pay for the abortion. In the case of rape or incest, this information may be omitted.
- (c) Public and private agencies and services are available to assist the woman during her pregnancy and after the birth of her child if she chooses not to have an abortion, whether she chooses to keep the child or place the child for adoption.
- (d) It is unlawful for any person to coerce a woman to undergo an abortion.
- (e) The woman is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.
- (f) The department of health services maintains a website that describes the unborn child and lists the agencies that offer alternatives to abortion.



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(g) The woman has a right to review the website and that a printed copy of the materials on the website will be provided to her free of charge if she chooses to review these materials.

3. The information in paragraphs 1 and 2 of this subsection is provided to the woman individually and in a private room to protect her privacy and to ensure that the information focuses on her individual circumstances and that she has adequate opportunity to ask questions.

4. The woman certifies in writing before the abortion that the information required to be provided pursuant to paragraphs 1 and 2 of this subsection has been provided.

B. If a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert the woman's death or to avert substantial and irreversible impairment of a major bodily function.

C. The department of health services shall establish a website within ninety days after the effective date of this amendment to this section and shall annually update the website. The website must include a link to a printable version of all materials listed on the website. The materials must be written in an easily understood manner and printed in a typeface that is large enough to be clearly legible. The website must include all of the following materials:

1. Information that is organized geographically by location and that is designed to inform the woman about public and private agencies and services that are available to assist a woman through pregnancy, at childbirth and while her child is dependent, including adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer and the manner in which these agencies may be contacted, including the agencies' telephone numbers and website addresses.

2. Information on the availability of medical assistance benefits for prenatal care, childbirth and neonatal care.

3. A statement that it is unlawful for any person to coerce a woman to undergo an abortion.

4. A statement that any physician who performs an abortion on a woman without obtaining the woman's voluntary and informed consent or without affording her a private medical consultation may be liable to the woman for damages in a civil action.

5. A statement that the father of a child is liable to assist in the support of that child, even if the father has offered to pay for an abortion, and that the law allows adoptive parents to pay costs of prenatal care, childbirth and neonatal care.

6. Information that is designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from fertilization to full term, including pictures or drawings representing the development of unborn children at two-week



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gestational increments and any relevant information on the possibility of the unborn child's survival. The pictures or drawings must contain the dimensions of the unborn child and must be realistic and appropriate for each stage of pregnancy. The information provided pursuant to this paragraph must be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages.

7. Objective information that describes the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, the possible detrimental psychological effects of abortion and the medical risks commonly associated with carrying a child to term.

D. An individual who is not a physician shall not perform a surgical abortion.

E. A person shall not write or communicate a prescription for a drug or drugs to induce an abortion or require or obtain payment for a service provided to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the twenty-four hour reflection period required by subsection A of this section.

F. A person shall not intimidate or coerce in any way any person to obtain an abortion. A parent, a guardian or any other person shall not coerce a minor to obtain an abortion. If a minor is denied financial support by the minor's parents, guardians or custodian due to the minor's refusal to have an abortion performed, the minor is deemed emancipated for the purposes of eligibility for public assistance benefits, except that the emancipated minor may not use these benefits to obtain an abortion.

G. An abortion clinic as defined in section 36-449.01 shall conspicuously post signs that are visible to all who enter the abortion clinic, that are clearly readable and that state it is unlawful for any person to force a woman to have an abortion and a woman who is being forced to have an abortion has the right to contact any local or state law enforcement or social service agency to receive protection from any actual or threatened physical, emotional or psychological abuse. The signs shall be posted in the waiting room, consultation rooms and procedure rooms.

H. A person shall not require a woman to obtain an abortion as a provision in a contract or as a condition of employment.

I. A physician who knowingly violates this section commits an act of unprofessional conduct and is subject to license suspension or revocation pursuant to title 32, chapter 13 or 17.

J. In addition to other remedies available under the common or statutory law of this state, any of the following may file a civil action to obtain appropriate relief for a violation of this section:

1. A woman on whom an abortion has been performed without her informed consent as required by this section.



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2. The father of the unborn child if married to the mother at the time she received the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.

3. The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.

K. A civil action filed pursuant to subsection J of this section shall be brought in the superior court in the county in which the woman on whom the abortion was performed resides and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence, wantonness, wilfulness, intention or any other legal standard of care. Relief pursuant to subsection J of this section includes the following:

1. Money damages for all psychological, emotional and physical injuries resulting from the violation of this section.

2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.

3. Reasonable attorney fees and costs.

L. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.

36-2154.

Right to refuse to participate in abortion; abortion medication or emergency contraception

A. A hospital is not required to admit any patient for the purpose of performing an abortion. A physician, or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital, doctor, clinic or other medical or surgical facility in which an abortion has been authorized, who states in writing an objection to the abortion on moral or religious grounds is not required to facilitate or participate in the medical or surgical procedures that will result in the abortion.

B. A pharmacy, hospital or health professional, or any employee of a pharmacy, hospital or health professional, who states in writing an objection to abortion, abortion medication, emergency contraception or any medication or device intended to inhibit or prevent implantation of a fertilized ovum on moral or religious grounds is not required to facilitate or participate in the provision of an abortion, abortion medication, emergency contraception or any medication or device intended to inhibit or prevent implantation of a fertilized ovum. The pharmacy, hospital or health professional, or an employee of the pharmacy, hospital or health professional, shall return to the patient the patient's written prescription order.



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36-2155.

Performance of an abortion by individual who is not a physician; prohibition; definitions

A. An individual who is not a physician shall not perform a surgical abortion.

B. For the purposes of this section:

1. "Physician" means a person who is licensed pursuant to title 32, chapter 13 or 17.

2. "Surgical abortion" means the use of a surgical instrument or a machine to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. Surgical abortion does not include the use of any means to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Surgical abortion does not include patient care incidental to the procedure.

36-2156. Informed consent; ultrasound required; violation; civil relief; statute of limitations

A. An abortion shall not be performed or induced without the voluntary and informed consent of the woman on whom the abortion is to be performed or induced. Except in the case of a medical emergency and in addition to the other requirements of this chapter, consent to an abortion is voluntary and informed only if both of the following are true:

1. At least twenty-four hours before the woman having any part of an abortion performed or induced, and before the administration of any anesthesia or medication in preparation for the abortion on the woman, the physician who is to perform the abortion, the referring physician or a qualified person working in conjunction with either physician shall:

(a) Perform fetal ultrasound imaging and auscultation of fetal heart tone services on the woman undergoing the abortion.

(b) Offer to provide the woman with an opportunity to view the active ultrasound image of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible. The active ultrasound image must be of a quality consistent with standard medical practice in the community, contain the dimensions of the unborn child and accurately portray the presence of external members and internal organs, if present or viewable, of the unborn child. The auscultation of fetal heart tone must be of a quality consistent with standard medical practice in the community.

(c) Offer to provide the woman with a simultaneous explanation of what the ultrasound is depicting, including the presence and location of the unborn child within the uterus, the number of unborn children depicted, the dimensions of the unborn child and the presence of any external members and internal organs, if present or viewable.

(d) Offer to provide the patient with a physical picture of the ultrasound image of the unborn child.

2. The woman certifies in writing before the abortion that she has been given the opportunity to view the active ultrasound image and hear the heartbeat of the unborn child if the heartbeat is audible and that she opted to view or not view the active ultrasound image and hear or not hear the heartbeat of the unborn child.



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B. A physician who knowingly violates this section commits an act of unprofessional conduct and is subject to license suspension or revocation pursuant to title 32, chapter 13 or 17.

C. In addition to other remedies available under the common or statutory law of this state, any of the following may file a civil action to obtain appropriate relief for a violation of this section:

1. A woman on whom an abortion has been performed without her informed consent as required by this section.

2. The father of the unborn child if married to the mother at the time she received the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.

3. The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.

D. A civil action filed pursuant to subsection C of this section shall be brought in the superior court in the county in which the woman on whom the abortion was performed resides and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence, wantonness, wilfulness, intention or any other legal standard of care. Relief pursuant to subsection C of this section includes any of the following:

1. Money damages for all psychological, emotional and physical injuries resulting from the violation of this section.

2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.

3. Reasonable attorney fees and costs.

E. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.

36-2157. Affidavit

A person shall not knowingly perform or induce an abortion before that person completes an affidavit that:

1. States that the person making the affidavit is not aborting the child because of the child's sex or race and has no knowledge that the child to be aborted is being aborted because of the child's sex or race.

2. Is signed by the person performing or inducing the abortion.

36-2158. Informed consent; fetal condition; website; unprofessional conduct; civil relief; statute of limitations; definitions

A. A person shall not perform or induce an abortion without first obtaining the voluntary and informed consent of the woman on whom the abortion is to be performed or induced. Except in the case of a medical emergency and in addition to the other requirements of this chapter, consent to an abortion is voluntary and informed only if all of the following occur:

1. In the case of a woman seeking an abortion of her unborn child diagnosed with a lethal fetal condition, at least twenty-four hours before the abortion the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, that:

(a) Perinatal hospice services are available and the physician has offered this care as an alternative to abortion.

(b) The department of health services maintains a website that lists perinatal hospice programs that are available both in this state and nationally and that are organized geographically by location.



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(c) The woman has a right to review the website and that a printed copy of the materials on the website will be provided to her free of charge if she chooses to review these materials.

2. In the case of a woman seeking an abortion of her unborn child diagnosed with a nonlethal fetal condition, at least twenty-four hours before the abortion the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person:

(a) Of up-to-date, evidence-based information concerning the range of outcomes for individuals living with the diagnosed condition, including physical, developmental, educational and psychosocial outcomes.

(b) That The department of health services maintains a website that lists information regarding support services, hotlines, resource centers or clearinghouses, national and local peer support groups and other education and support programs available to assist the woman and her unborn child, any national or local registries of families willing to adopt newborns with the nonlethal fetal condition and contact information for adoption agencies willing to place newborns with the nonlethal fetal condition with families willing to adopt.

(c) That the woman has a right to review the website and that a printed copy of the materials on the website will be provided to her free of charge if she chooses to review these materials.

3. The woman certifies in writing before the abortion that the information required to be provided pursuant to this subsection has been provided.

B. The department of health services shall establish a website within ninety days after the effective date of this section and shall annually update the website. The website shall include the information prescribed in subsection A, paragraph 1, subdivision (b) and paragraph 2, subdivision (b) of this section.

C. A physician who knowingly violates this section commits an act of unprofessional conduct and is subject to license suspension or revocation pursuant to title 32, chapter 13 or 17.

D. In addition to other remedies available under the common or statutory law of this state, any of the following individuals may file a civil action to obtain appropriate relief for a violation of this section:

1. A woman on whom an abortion has been performed without her informed consent as required by this section.

2. The father of the unborn child if the father is married to the mother at the time she received the abortion, unless the pregnancy resulted from the father's criminal conduct.

3. The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from either of the maternal grandparent's criminal conduct.

E. A civil action filed pursuant to subsection D of this section shall be brought in the superior court in the county in which the woman on whom the abortion was performed resides and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence, wantonness, wilfulness, intention or any other legal standard of care. Relief pursuant to this subsection includes the following:

1. Money damages for all psychological, emotional and physical injuries resulting from the violation of this section.

2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.

3. Reasonable attorney fees and costs.



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F. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.

G. For the purposes of this section:

1. "Lethal fetal condition" means a fetal condition that is diagnosed before birth and that will result, with reasonable certainty, in the death of the unborn child within three months after birth.

2. "Nonlethal fetal condition" means a fetal condition that is diagnosed before birth and that will not result in the death of the unborn child within three months after birth but may result in physical or mental disability or abnormality.

3. "Perinatal hospice" means comprehensive support to the pregnant woman and her family that includes supportive care from the time of diagnosis through the time of birth and death of the infant and through the postpartum period. Supportive care may include counseling and medical care by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers and specialty nurses who are focused on alleviating fear and ensuring that the woman and her family experience the life and death of the child in a comfortable and supportive environment.

36-2159. Abortion; gestational age; violation; classification; unprofessional conduct; civil relief; statute of limitations

A. Except in a medical emergency, a person shall not perform, induce or attempt to perform or induce an abortion unless the physician or the referring physician has first made a determination of the probable gestational age of the unborn child. In making that determination, the physician or referring physician shall make any inquiries of the pregnant woman and perform or cause to be performed all medical examinations, imaging studies and tests as a reasonably prudent physician in the community, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age.

B. Except in a medical emergency, a person shall not knowingly perform, induce or attempt to perform or induce an abortion on a pregnant woman if the probable gestational age of her unborn child has been determined to be at least twenty weeks.

C. A person who knowingly violates this section commits a class 1 misdemeanor.

D. A physician who knowingly violates this section commits an act of unprofessional conduct and is subject to license suspension or revocation pursuant to title 32, chapter 13 or 17.

E. In addition to other remedies available under the common or statutory law of this state, any of the following individuals may file a civil action to obtain appropriate relief for a violation of this section:

1. A woman on whom an abortion has been performed in violation of this section.

2. The father of the unborn child if the father is married to the mother at the time she received the abortion, unless the pregnancy resulted from the father's criminal conduct.

3. The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from either of the maternal grandparent's criminal conduct.

F. A civil action filed pursuant to subsection E of this section shall be brought in the superior court in the county in which the woman on whom the abortion was performed resides. Relief pursuant to this subsection includes the following:



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1. Money damages for all psychological, emotional and physical injuries resulting from the violation of this section.
2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.
3. Reasonable attorney fees and costs.
- G. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.
- H. A woman on whom an abortion is performed or induced in violation of this section may not be prosecuted under this section or for conspiracy to commit a violation of this section.

Article 2 Abortion Reporting Requirements

36-2161. Abortions; reporting requirements

A. A hospital or facility in this state where abortions are performed must submit to the department of health services on a form prescribed by the department a report of each abortion performed in the hospital or facility. The report shall not identify the individual patient by name but must include the following information:

1. The name and address of the facility where the abortion was performed.
2. The type of facility where the abortion was performed.
3. The county where the abortion was performed.
4. The woman's age.
5. The woman's educational background by highest grade completed and, if applicable, level of college completed.
6. The county and state in which the woman resides.
7. The woman's race and ethnicity.
8. The woman's marital status.
9. The number of prior pregnancies and prior abortions of the woman.
10. The number of previous spontaneous terminations of pregnancy of the woman.
11. The gestational age of the unborn child at the time of the abortion.
12. The reason for the abortion, including whether the abortion is elective or due to maternal or fetal health considerations.
13. The type of procedure performed or prescribed and the date of the abortion.
14. Any preexisting medical conditions of the woman that would complicate pregnancy and any known medical complication that resulted from the abortion.
15. The basis for any medical judgment that a medical emergency existed that excused the physician from compliance with the requirements of this chapter.
16. The physician's statement if required pursuant to section 36-2301.01.
17. If applicable, the weight of the aborted fetus for any abortion performed pursuant to section 36-2301.01.

B. The report must be signed by the physician who performed the abortion or, if a health professional other than a physician is authorized by law to prescribe or administer abortion medication, the signature and title of the person who prescribed or administered the abortion medication. The form may be signed electronically and shall indicate that the person who signs the report is attesting that the



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information in the report is correct to the best of the person's knowledge. The hospital or facility must transmit the report to the department within fifteen days after the last day of each reporting month.

C. Any report filed pursuant to this section shall be filed electronically at an internet website that is designated by the department unless the person required to file the report applies for a waiver from electronic reporting by submitting a written request to the department.

36-2162. Complications; reporting requirements

A. A health professional who provides medical care or treatment to a woman who, in the good faith judgment of the health professional, is in need of medical care because of a complication or complications resulting from having undergone an abortion or attempted abortion must file a report with the department of health services on a form prescribed by the department. The report shall not identify the individual patient by name but must contain the following information and other information as the department may require:

1. The date of the abortion.
 2. The woman's age.
 3. The number of pregnancies the woman may have had before the abortion.
 4. The number and type of abortions the woman may have had before this abortion.
 5. The name and address of the facility where the abortion was performed.
 6. The gestational age of the unborn child at the time of the abortion, if known.
 7. The type of abortion performed, if known.
 8. The nature of the complication or complications.
 9. The medical treatment given.
 10. The nature and extent, if known, of any permanent condition caused by the complication.
- B. The hospital or facility shall complete the complication report, which may be signed electronically and shall indicate that the person who signs the report is attesting that the information in the report is correct to the best of that person's knowledge. The hospital or facility must transmit the report to the department within fifteen days after the last day of each reporting month.
- C. Any report filed pursuant to this section shall be filed electronically at an internet website that is designated by the department unless the person required to file the report applies for a waiver from electronic reporting by submitting a written request to the department.

36-2163. Reports; confidentiality; annual statistical report; violations; classification; unprofessional conduct

A. A report required by this article shall not contain the name of the woman, common identifiers such as the woman's social security number, driver license number or insurance carrier identification numbers or any other information or identifiers that would make it possible to identify in any manner or under any circumstances an individual who has obtained or seeks to obtain an abortion.

B. The department of health services shall collect all abortion reports and complication reports and prepare a comprehensive annual statistical report based on the data gathered in the reports. The statistical report shall not lead to the disclosure of the identity of any person filing a report or about whom a report is filed. The department shall make the statistical report available on its website and for public inspection and copying.



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C. The report prepared by the department pursuant to subsection B of this section shall include statistics from the administrative office of the courts containing the following information:

1. The number of petitions filed pursuant to section 36-2152, subsection B.
2. Of the petitions filed pursuant to section 36-2152, subsection B, the number in which the judge appointed a guardian ad litem or court-appointed counsel for the minor pursuant to section 36-2152, subsection D.
3. Of the petitions filed pursuant to section 36-2152, subsection B, the number in which the judge issued an order authorizing an abortion without parental consent.
4. Of the petitions filed pursuant to section 36-2152, subsection B, the number in which the judge issued an order denying the petition.
5. Of the petitions denied, the number appealed to the court of appeals.
6. The number of those appeals that resulted in the denials being affirmed.
7. The number of those appeals that resulted in the denial being reversed.

D. Except for a statistical report as provided in subsection B of this section, a report filed pursuant to this article is not a public record and is not available for public inspection, except that disclosure may be made to law enforcement officials on an order of a court after application showing good cause. The court may condition disclosure of the information on any appropriate safeguards it may impose.

E. Original copies of all reports filed pursuant to sections 36-2161 and 36-2162 shall be available to the Arizona medical board and the Arizona board of osteopathic examiners in medicine and surgery for use in the performance of their official duties. The Arizona medical board and the Arizona board of osteopathic examiners in medicine and surgery shall maintain the confidentiality of any reports obtained pursuant to this subsection.

F. An employee, agent or contractor of the department who wilfully discloses any information obtained from reports filed pursuant to this article, other than disclosure authorized under subsections B, D and E of this section or as otherwise authorized by law, is guilty of a class 3 misdemeanor.

G. A person who is required by this article to file a report, keep any records or supply any information and who wilfully fails to file that report, keep records or supply information as required by law is guilty of unprofessional conduct and is subject to discipline, including license suspension or revocation.

H. A person who wilfully delivers or discloses to the department any report, record or information known by that person to be false commits a class 1 misdemeanor.

I. In addition to the penalties prescribed by subsections F, G and H of this section, an organization or facility that wilfully violates the reporting requirements of this article is subject to discipline by the department including the civil penalties prescribed in section 36-431.01. If an organization or facility that is licensed pursuant to chapter 4, article 10 of this title wilfully violates the reporting requirements of this article, the department may assess a civil penalty pursuant to section 36-431.01, impose an intermediate sanction pursuant to section 36-427, suspend or revoke a license pursuant to section 36-427, deny a license or bring an action for an injunction pursuant to section 36-430.

36-2164. Construction of article

This article does not establish or recognize a right to an abortion and does not make lawful an abortion that is otherwise unlawful.



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Arizona Administrative Code

Title 9 Health Services

Chapter 10 Department of Health Services – Health Care Institutions Licensing

Article 15 Abortion Clinics

R9-10-1501. Definitions

In this Article, unless the context otherwise requires:

1. "Abortion" means the use of a surgical instrument or a machine with the intent to terminate a woman's pregnancy for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Abortion does not include birth control devices or oral contraceptives.
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. "Admission" means documented acceptance by a hospital of an individual as an inpatient as defined in R9-10-201 on the order of a physician.
4. "Admitting privileges" means permission extended by a hospital to a physician to allow admission of a patient:
 - a. By the patient's own physician, or
 - b. Through a written agreement between the patient's physician and another physician that states that the other physician has permission to personally admit the patient to a hospital in this state and agrees to do so.
5. "Adverse reaction" means an unexpected occurrence that threatens the health and safety of a patient.
6. "Biohazardous medical waste" means cultures and stocks, waste human blood and blood products, bodily fluids, uterine contents, and discarded medical sharps.
7. "Conspicuously posted" means placed at a location within an abortion clinic that is accessible and visible to patients and the public.
8. "Controlled substance" means the same as defined in A.R.S. § 32-1901(12).
9. "Course" means hands-on practice under the supervision of a physician, training, or education.
10. "Current" means up-to-date, extending to the present time.
11. "Department" means the same as defined in A.R.S. § 36-401.
12. "Direction" means the same as defined in A.R.S. § 36-401.
13. "Discharge" means a patient no longer requires the medical services, nursing services, or health-related services provided by the abortion clinic.
14. "Documentation" means written, supportive evidence.
15. "Emergency" means a potentially life-threatening occurrence that requires an immediate response or medical treatment.
16. "Employee" means an individual who receives compensation from a licensee, but does not provide medical services, nursing services, or health-related services.
17. "Fetus" means an individual human organism from fertilization until birth.
18. "First trimester" means one through 14 weeks as measured from the first day of the last menstrual period or one through 12 weeks as measured from the date of fertilization.



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19. "Gestational age" means the number of completed weeks of the unborn fetus as calculated from the first day of the last menstrual period or the date of fertilization.
20. "Health-related services" means the same as defined in A.R.S. § 36-401.
21. "Immediately" means without delay.
22. "Incident" means an abortion related patient death or serious injury to a patient or viable fetus.
23. "Infection control" means to identify, prevent, monitor, and minimize infections.
24. "Licensee" means an individual, a partnership, an association, a limited liability company, or corporation authorized by the Department to operate an abortion clinic.
25. "Local" means under the jurisdiction of a city or county in Arizona.
26. "Medical director" means a physician who is responsible for the direction of the medical services, nursing services, and health-related services provided to patients at an abortion clinic.
27. "Medical evaluation" means obtaining a patient's medical history, performing a physical examination of a patient's body, and conducting laboratory tests as provided in R9-10-1508.
28. "Medical services" means the same as defined in A.R.S. § 36-401.
29. "Medication" means a prescription medication as defined in A.R.S. § 32-1901 or a nonprescription drug or over-the-counter drug as defined in A.R.S. § 32-1901.
30. "Monitor" means to observe and document, continuously or intermittently, the values of certain physiologic variables on a patient such as pulse, blood pressure, oxygen saturation, respiration and blood loss.
31. "Nationally recognized medical journal" means any publication distributed nationally that contains peer-reviewed medical information, such as the American Journal of Radiology or the Journal of Ultrasound in Medicine.
32. "Nurse" means an individual licensed and in good standing as a registered nurse or a practical nurse according to A.R.S. Title 32, Chapter 15.
33. "Nurse practitioner" means an individual licensed and in good standing as a registered nurse practitioner according to A.R.S. Title 32, Chapter 15.
34. "Nursing services" means the same as defined in A.R.S. § 36-401.
35. "Patient" means a female receiving medical services, nursing services, or health-related services related to an abortion.
36. "Patient care staff" means a physician, nurse practitioner, nurse, physician assistant, or surgical assistant who provides medical services, nursing services, or health-related services to a patient.
37. "Patient representative" means a patient's legal guardian, an individual acting on behalf of a patient with the written consent of the patient, or a surrogate according to A.R.S. § 36-3201(13).
38. "Patient transfer" means relocating a patient requiring medical services from an abortion clinic to another health care institution.
39. "Personally identifiable patient information" means:
 - a. The name, address, telephone number, e-mail address, Social Security number, and birth date of:
 - i. The patient,
 - ii. The patient's representative,
 - iii. The patient's emergency contact,
 - iv. The patient's children,
 - v. The patient's spouse,
 - vi. The patient's sexual partner, and



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- vii. Any other individual identified in the patient's medical record other than patient care staff;
 - b. The patient's place of employment;
 - c. The patient's referring physician;
 - d. The patient's insurance carrier or account;
 - e. Any "individually identifiable health information" as proscribed in 45 CFR 164.514; and
 - f. Any other information in the patient's medical record that could reasonably lead to the identification of the patient.
40. "Personnel" means patient care staff, employees, and volunteers.
41. "Physical facilities" means property that is:
- a. Designated on an application for a license by the applicant; and
 - b. Licensed to provide services by the Department according to A.R.S. Title 36, Chapter 4.
42. "Physician" means an individual licensed according to A.R.S. Title 32, Chapter 13 or 17.
43. "Physician assistant" means an individual licensed according to A.R.S. Title 32, Chapter 25.
44. "Serious injury" means an injury that occurs at an abortion clinic and that creates a serious risk of substantial impairment of a major body organ.
45. "Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity.
46. "Surgical assistant" means an individual who is not licensed as a physician, physician assistant, nurse practitioner, or nurse who performs duties as directed by a physician, physician assistant, nurse practitioner or nurse.
47. "Viable fetus" means the same as defined in A.R.S. § 36-2301.01.
48. "Volunteer" means an individual who, without compensation, performs duties as directed by a member of the patient care staff at an abortion clinic.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1502. Application Requirements

An applicant shall submit an application for licensure that meets the requirements in A.R.S. § 36-422.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5



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(Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4).

Editor's Note: The following Exhibit was adopted and subsequently repealed under an exemption from the provisions of the Administrative Procedure Act, which means that this rule was not reviewed by the Governor's Regulatory Review Council; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on the rule; and the Attorney General has not certified this rule.

Exhibit A. Repealed

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1503. Administration

A. A licensee is responsible for the organization and management of an abortion clinic.

B. A licensee shall:

1. Ensure compliance with federal and state laws, rules, and local ordinances;
2. Adopt policies and procedures for the administration and operation of an abortion clinic;
3. Designate a medical director who is licensed according to A.R.S. Title 32, Chapter 13, 17, or 29. The licensee and the medical director may be the same individual;
4. Ensure that the Department's director or director's designee is allowed access as follows:
 - a. For a complaint inspection, upon presentation of an administrative search warrant authorizing the inspection of the abortion clinic; or
 - b. For a licensing or compliance inspection, at a date and time agreed to by the licensee and the Department that is no later than 10 business days after the date the Department submits a written request to the licensee to schedule the licensing or compliance inspection, unless the Department agrees to a later date and time;
5. Ensure the following documents are conspicuously posted at the physical facilities:
 - a. Current abortion clinic license issued by the Department,
 - b. Current telephone number and address of the Department's Office of Medical Facilities, and
 - c. Evacuation map.

C. A medical director shall ensure written policies and procedures are developed and implemented for:

1. Personnel qualifications, duties, and responsibilities;
2. Individuals qualified to provide counseling in the abortion clinic and the amount and type of training required for an individual to provide counseling;
3. Verification of the competency of the physician performing an abortion according to R9-10-1505;



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4. The storage, administration, accessibility, disposal, and documentation of a medication, and a controlled substance;
5. Accessibility and security of patient medical records;
6. Abortion procedures including recovery and follow-up care; and the minimum length of time a patient remains in the recovery room or area based on:
 - a. The type of abortion performed,
 - b. The estimated gestational age of the fetus,
 - c. The type and amount of medication administered, and
 - d. The physiologic signs including vital signs and blood loss;
7. Infection control including methods of sterilizing equipment and supplies;
8. Medical emergencies; and
9. Patient discharge and patient transfer.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1504. Incident Reporting

- A. A licensee shall ensure that the Department is notified of an incident as follows:
 1. For the death of a patient, verbal notification the next working day; and
 2. For a serious injury, written notification within 10 calendar days from the date of the serious injury.
- B. A medical director shall conduct an investigation of an incident and develop a written incident report that includes:
 1. The date and time of the incident;
 2. The name of the patient;
 3. Description of the incident;
 4. Names of individuals who observed the incident;
 5. Action taken by patient care staff and employees during the incident or immediately following the incident; and
 6. Action taken by the patient care staff and employees to prevent the incident from occurring in the future.
- C. A medical director shall ensure that the written incident report is:
 1. Submitted to the Department and a professional licensing board, if applicable, within 10 calendar days from the date of the notification in subsection (A); and
 2. Maintained in the physical facilities for at least two years from the date of the report.



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Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1505. Personnel Qualifications and Records

A licensee shall ensure that:

1. A physician who performs an abortion demonstrates to the medical director that the physician is competent to perform an abortion by:
 - a. The submission of documentation of education and experience, and
 - b. Observation by or interaction with the medical director;
2. Surgical assistants and volunteers who provide counseling and patient advocacy receive training in these specific responsibilities and any other responsibilities assigned and that documentation is maintained in the individual's personnel file of the training received;
3. An individual who performs an ultrasound provides documentation that the individual is:
 - a. A physician;
 - b. A physician assistant, nurse practitioner, or nurse who completed a hands-on course in performing ultrasounds under the supervision of a physician; or
 - c. An individual who:
 - i. Completed a hands-on course in performing ultrasounds under the supervision of a physician, and
 - ii. Is not otherwise precluded by law from performing an ultrasound;
4. An individual has completed a course for the type of ultrasound the individual performs;
5. A personnel file for each member of the patient care staff and each volunteer is maintained either electronically or in writing and includes:
 - a. The individual's name, position title, and the first and last date of employment or volunteer service, if applicable;
 - b. Verification of qualifications, training, or licensure, if applicable;
 - c. Documentation of cardiopulmonary resuscitation certification, if applicable;
 - d. Documentation of verification of competency, as required in subsection (1), and signed and dated by the medical director;
 - e. Documentation of training for surgical assistants and volunteers; and
 - f. Documentation of completion of a course as required in subsection (3), for an individual performing ultrasounds; and
6. Personnel files are maintained in the physical facilities for at least two years from the ending date of employment or volunteer service.

Historical Note



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Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1506. Staffing Requirements

A. A licensee shall ensure that there are a sufficient number of patient care staff and employees to:

1. Meet the requirements of this Article,
2. Ensure the health and safety of a patient, and
3. Meet the needs of a patient based on the patient's medical evaluation.

B. A licensee shall ensure that:

1. A member of the patient care staff, except for a surgical assistant, who is current in cardiopulmonary resuscitation certification is in the physical facilities until all patients are discharged;
2. A physician with admitting privileges at an accredited hospital in this state remains on the premises of the abortion clinic until all patients are stable and ready to leave the recovery room; and
3. A physician, a nurse, a nurse practitioner, a physician assistant, or, if a physician is able to provide direct supervision as defined in A.R.S. § 32-1401, a medical assistant under the direct supervision of the physician:
 - a. Monitors each patient during the patient's recovery following the abortion, and
 - b. Remains in the facility until each patient is discharged by a physician.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1507. Patient Rights

A licensee shall ensure that a patient is afforded the following rights and is informed of these rights:



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1. To refuse treatment or withdraw consent for treatment;
2. To have medical records kept confidential; and
3. To be informed of:
 - a. Billing procedures and financial liability before abortion services are provided;
 - b. Proposed medical or surgical procedures, associated risks, possible complications and alternatives;
 - c. Counseling services that are provided in the physical facilities; and
 - d. If an ultrasound is performed, the right to review the ultrasound results with a physician, a physician assistant, a nurse practitioner, or a registered nurse before the abortion procedure.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2).

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R9-10-1508. Abortion Procedures

- A. A medical director shall ensure that a medical evaluation of a patient is conducted before performing an abortion and includes:
1. A medical history including:
 - a. Allergies to medications, antiseptic solutions, or latex;
 - b. Obstetrical and gynecological history;
 - c. Past surgeries;
 - d. Medication the patient is currently taking; and
 - e. Other medical conditions;
 2. A physical examination performed by a physician that includes a bimanual examination to estimate uterine size and palpation of adnexa; and
 3. The following laboratory tests:
 - a. A urine or blood test to determine pregnancy if an ultrasound examination is not performed,
 - b. Rh typing unless the patient provides written documentation of blood type acceptable to the physician,
 - c. Anemia screening, and
 - d. Other laboratory tests recommended by the physician or medical director on the basis of the physical examination.
- B. If the medical evaluation indicates a patient is Rh negative, a medical director shall ensure that:
1. The patient receives information from a physician on this condition;
 2. The patient is offered RhO(d) immune globulin within 72 hours after the abortion procedure;



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3. If a patient refuses RhO(d) immune globulin, the patient signs and dates a form acknowledging the patient's condition and refusing the RhO(d) immune globulin;
 4. The form is maintained in the patient's medical record; and
 5. If a patient refuses RhO(d) immune globulin or if a patient refuses to sign and date an acknowledgment and refusal form, the physician documents the patient's refusal in the patient's medical record.
- C. A physician estimates the gestational age of the fetus, and records the estimated age in the patient's medical record. The estimated age is based upon:
1. Ultrasound measurements of the biparietal diameter, length of femur, abdominal circumference, visible pregnancy sac, or crown-rump length or a combination of these; or
 2. The date of the last menstrual period or the date of fertilization and a bimanual examination of the patient.
- D. If a physical examination or other information obtained from the patient or laboratory tests indicates the gestational age of the fetus is greater than 12 weeks, a medical director shall ensure that:
1. An ultrasound is performed by an individual who meets the requirements in R9-10-1505(3);
 2. An ultrasound estimate of gestational age is performed using methods and tables or charts published in a nationally recognized medical journal;
 3. An original ultrasound print is:
 - a. Interpreted by a physician, and
 - b. Maintained in the patient's medical record in either electronic or paper form; and
 4. If requested by the patient, the ultrasound is reviewed with the patient by a physician, a physician assistant, a nurse practitioner, or a registered nurse.
- E. A medical director shall ensure that before an abortion is performed on a patient:
1. Written consent is signed and dated by the patient or the patient's representative; and
 2. Information is provided to the patient on the abortion procedure including alternatives, risks, and potential complications.
- F. A medical director shall ensure that an abortion is performed according to the abortion clinic's policies and procedures and this Article.
- G. A medical director shall ensure that:
1. Patient care staff monitor the patient's vital signs throughout the abortion procedure to ensure the patient's health and safety,
 2. Intravenous access is established and maintained on a patient undergoing an abortion after the first trimester unless the physician determines that establishing intravenous access is not appropriate for the particular patient and documents that fact in the patient's medical record, and
 3. If a viable fetus shows signs of life:
 - a. Resuscitative measures are used to support life,
 - b. The viable fetus is transferred as required in R9-10-1509, and
 - c. Resuscitative measures and the transfer are documented.
- H. A medical director shall ensure that following the abortion procedure:
1. A patient's vital signs and bleeding are monitored by a physician, a nurse, a nurse practitioner, a physician assistant, or, if a physician is able to provide direct supervision as defined in A.R.S. § 32-1401, a medical assistant under the direct supervision of the physician to ensure the patient's health and safety; and

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2. A patient remains in the recovery room or recovery area until a physician, physician assistant, a nurse practitioner, or a nurse examines the patient and determines that the patient's medical condition is stable and the patient is ready to leave the recovery room or recovery area.

I. A medical director shall ensure that follow-up care includes:

1. With a patient's consent, a telephone call to the patient by a member of the patient care staff, except a surgical assistant, within 24 hours of the patient's discharge to assess the patient's recovery. If the patient care staff is unable to speak with the patient, for any reason, the attempt to contact the patient is documented in the patient's medical record; and

2. A follow-up visit offered and scheduled, if requested, no more than 21 days after the abortion. The follow-up visit shall include:

- a. A physical examination,
- b. A review of all laboratory tests as required in subsection (A)(3), and
- c. A urine pregnancy test.

J. If a continuing pregnancy is suspected as a result of the follow-up visit required in subsection (I)(2), a physician who performs abortions shall be consulted.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1509. Patient Transfer and Discharge

A. A medical director shall ensure:

1. A patient is transferred to a hospital for an emergency involving the patient;
2. A viable fetus requiring emergency care is transferred to a hospital;
3. A patient transfer is documented in the patient's medical record; and
4. Documentation of a medical evaluation, treatment given, laboratory, and diagnostic information is transferred with a patient.

B. A medical director shall ensure that before a patient is discharged:

1. A physician signs the patient's discharge order; and
2. A patient receives written information at discharge that includes:
 - a. Signs of possible complications;
 - b. When to access medical care in response to complications;
 - c. A telephone number of an individual or entity to contact for medical emergencies;
 - d. Instructions and precautions for resuming vaginal intercourse after the abortion; and



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e. Instructions specific to the patient's abortion or condition.

Historical Note

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Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1510. Medications and Controlled Substances

A medical director shall ensure that:

1. The abortion clinic complies with the requirements for medications and controlled substances in A.R.S. Title 32, Chapter 18, and A.R.S. Title 36, Chapter 27;
2. A medication is administered in compliance with an order from a physician, physician assistant, nurse practitioner, or as otherwise provided by law;
3. A medication is administered to a patient by a physician or as otherwise provided by law;
4. Medications and controlled substances are maintained in a locked area in the physical facilities;
5. Only personnel designated in the abortion clinic's policies and procedures have access to the locked area containing the medications and controlled substances;
6. Expired, mislabeled, or unusable medications and controlled substances are disposed of according to the abortion clinic's policies and procedures;
7. Medication errors and adverse reactions, including any actions taken in response to the medication errors or adverse reactions, are immediately reported to the medical director and licensee, and recorded in the patient's medical record;
8. Medication information is maintained in a patient's medical record and contains:
 - a. The patient's name, age, and weight;
 - b. The medications the patient is currently taking; and
 - c. Allergies or sensitivities to medications, antiseptic solutions, or latex; and
9. If medication is administered to a patient, the following are documented in the patient's medical record:
 - a. The date and time of administration;
 - b. The name, strength, dosage form, amount of medication, and route of administration; and
 - c. The identification and signature of the individual administering the medication.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State



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December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1511. Medical Records

A. A licensee shall ensure that:

1. A medical record is established and maintained for a patient that contains:
 - a. Patient identification including:
 - i. The patient's name, address, and date of birth;
 - ii. The designated patient representative, if applicable; and
 - iii. The name and telephone number of an individual to contact in an emergency;
 - b. The patient's medical history required in R9-10-1508(A)(1);
 - c. The patient's physical examination required in R9-10-1508(A)(2);
 - d. The laboratory test results required in R9-10-1508(A)(3);
 - e. The physician's estimated gestational age of the fetus required in R9-10-1508(C);
 - f. The ultrasound results, if applicable, including the original print as required in R9-10-1508(D);
 - g. Each consent form signed by the patient or the patient's representative;
 - h. A record of all orders issued by a physician, physician assistant or nurse practitioner;
 - i. A record of all medical, nursing, and health-related services provided to the patient; and
 - j. The patient's medication information;
2. A medical record is accessible only to the Department or personnel authorized by the abortion clinic's policies and procedures;
3. Medical record information is confidential and released only with the written informed consent of a patient or the patient's representative or as otherwise permitted by law;
4. A medical record is protected from loss, damage, or unauthorized use and is maintained and accessible for seven years from the date of an adult patient's discharge or if the patient is a child, either for at least three years after the child's 18th birthday or for at least seven years after the patient's discharge, whichever date occurs last;
5. A medical record is maintained at the abortion clinic for at least six months from the date of the patient's discharge;
6. Vital records and vital statistics are retained according to A.R.S. § 36-343; and
7. If an abortion clinic ceases operations, the Department is notified in writing, not less than 30 days before ceasing operations, of the location of the abortion clinic's medical records.

B. A licensee shall comply with Department requests for access to or copies of patient medical records as follows:

1. Subject to the redaction permitted in subsection (B)(5), for patient medical records requested for review in connection with a compliance inspection, the licensee shall provide the Department with the following patient medical records related to medical services associated with an abortion, including any follow-up visits to the facility in connection with the abortion:
 - a. Patient identification including:
 - i. The patient's name, address, and date of birth;
 - ii. The designated patient representative, if applicable; and



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- iii. The name and telephone number of an individual to contact in an emergency;
 - b. The patient's medical history required in R9-10-1508(A)(1);
 - c. The patient's physical examination required in R9-10-1508(A)(2);
 - d. The laboratory test results required in R9-10-1508(A)(3);
 - e. The physician's estimated gestational age of the fetus required in R9-10-1508(C);
 - f. The ultrasound results, if applicable, including the original print as required in R9-10-1508(D);
 - g. Each consent form signed by the patient or the patient's representative;
 - h. A record of all orders issued by a physician, physician assistant, or nurse practitioner;
 - i. A record of all medical, nursing, and health-related services provided to the patient; and
 - j. The patient's medication information.
2. For patient medical records requested for review in connection with an initial licensing or compliance inspection, the licensee is not required to produce for review by the Department any patient medical records created or prepared by a referring physician or any of that referring physician's medical staff.
 3. The licensee is not required to provide patient medical records regarding medical services associated with an abortion that occurred before:
 - a. The effective date of these rules, or
 - b. A previous licensing or compliance inspection of the abortion clinic.
 4. The patient medical records may be provided to the Department in either paper or in an electronic format that is acceptable to the Department.
 5. When access to or copies of patient medical records are requested from a licensee by the Department, the licensee shall redact only personally identifiable patient information from the patient medical records before the disclosure of the patient medical records to the Department, except as provided in subsection (B)(8).
 6. For patient medical records requested for review in connection with an initial licensing or compliance inspection, the licensee shall provide the redacted copies of the patient medical records to the Department within two business days of the Department's request for the redacted medical records if the total number of patients for whom patient medical records are requested by the Department is from one to 10 patients, unless otherwise agreed to by the Department and the licensee. The time within which the licensee shall produce redacted records to the Department shall be increased by two business days for each additional five patients for whom patient medical records are requested by the Department, unless otherwise agreed to by the Department and the licensee.
 7. Upon request by the Department, in addition to redacting only personally identifiable patient information, the licensee shall code the requested patient medical records by a means that allows the Department to track all patient medical records related to a specific patient without the personally identifiable patient information.
 8. The Department shall have access to or copies of unredacted patient medical records only pursuant to an administrative search warrant specifically authorizing the disclosure of unredacted patient medical records by the licensee.
 9. If the Department obtains copies of unredacted patient medical records, the Department shall:
 - a. Allow the examination and use of the unredacted patient medical records only by those Department employees who need access to the patient medical records to fulfill their investigative responsibilities and duties;



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- b. Maintain all unredacted patient medical records in a locked drawer, cabinet, or file or in a password-protected electronic file with access to the secured drawer, cabinet, or file limited to those individuals who have access to the patient medical records pursuant to subsection (B)(9)(a);
 - c. Destroy all unredacted patient medical records at the termination of the Department's investigation or at the termination of any administrative or legal action that is taken by the Department as the result of the Department's investigation, whichever is later;
 - d. If the unredacted patient medical records are filed with a court or other judicial body, including any administrative law judge or panel, file the records only under seal; and
 - e. Prevent access to the unredacted records by anyone except as provided in subsection (B)(9)(a) or (d).
- C. A medical director shall ensure that only personnel authorized by an abortion clinic's policies records or signs an entry in a medical record and:
1. An entry in a medical record is dated and legible;
 2. An entry is authenticated by:
 - a. A written signature,
 - b. An individual's initials if the individual's written signature already appears in the medical record,
 - c. A rubber-stamp signature, or
 - d. A computer code;
 3. An entry is not changed after it has been recorded but additional information related to an entry may be recorded in the medical record;
 4. When a verbal or telephone order is entered in the medical record, the entry is authenticated within 21 days by the individual who issued the order;
 5. If a rubber-stamp signature or a computer code is used:
 - a. An individual's rubber stamp or computer code is not used by another individual,
 - b. The individual who uses a rubber stamp or computer code signs a statement that the individual is responsible for the use of the rubber stamp or the computer code, and
 - c. The signed statement is included in the individual's personnel record; and
 6. If an abortion clinic maintains medical records electronically, the medical director shall ensure the date and time of an entry is recorded by the computer's internal clock.
- D. As required by A.R.S. § 36-449.03(l), the Department shall not release any personally identifiable patient or physician information.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.



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R9-10-1512. Environmental and Safety Standards

A licensee shall ensure that:

1. Physical facilities:

- a. Provide lighting and ventilation to ensure the health and safety of a patient;
 - b. Are maintained in a clean condition;
 - c. Are free from a condition or situation that may cause a patient to suffer physical injury;
 - d. Are maintained free from insects and vermin; and
 - e. Are smoke-free;
2. A warning notice is placed at the entrance to a room or area where oxygen is in use;
3. Soiled linen and clothing are kept in a covered container and in a separate area from clean linen and clothing;
4. Personnel wash hands after each direct patient contact and after handling soiled linen, soiled clothing, or biohazardous medical waste;
5. A written emergency plan is developed and implemented that includes procedures for protecting the health and safety of patients and other individuals in a fire, natural disaster, loss of electrical power, or threat or incidence of violence; and
6. An evacuation drill is conducted at least once every six months that includes all personnel in the physical facilities the day of the evacuation drill. Documentation of the evacuation drill is maintained in the physical facilities for one year from the date of the evacuation drill and includes:
- a. The date and time of the evacuation drill; and
 - b. The names of personnel participating in the evacuation drill.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1513. Equipment Standards

A licensee shall ensure that:

1. Equipment and supplies are maintained in a quantity sufficient to meet the needs of all patients present in the abortion clinic;
2. Equipment to monitor vital signs is in each room in which an abortion is performed;
3. A surgical or gynecologic examination table is used for an abortion;
4. The following equipment and supplies are provided in the abortion clinic:
 - a. Equipment to measure blood pressure;
 - b. A stethoscope;
 - c. A scale for weighing a patient;
 - d. Supplies for obtaining specimens, cultures and other laboratory tests; and



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e. Equipment and supplies for use in a medical emergency including:

- i. Ventilatory assistance equipment;
- ii. Oxygen source;
- iii. Suction apparatus; and
- iv. Intravenous fluid equipment and supplies;

5. In addition to the requirements in subsection (4), the following equipment is available for an abortion procedure performed after the first trimester:

- a. Ultrasound equipment;
 - b. Drugs to support cardiopulmonary function; and
 - c. Equipment to monitor cardiopulmonary status;
6. Equipment and supplies are clean and sterile, if applicable, before each use;
7. Equipment required in this Section is maintained in working order, tested and calibrated at least once every 12 months or according to the manufacturer's recommendations, and used according to the manufacturer's recommendations; and
8. Documentation of each equipment test, calibration, and repair is maintained in the physical facilities for one year from the date of the testing, calibration, or repair and provided to the Department for review within two hours from the time the Department requests the documentation.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act, which means these rules were not reviewed by the Governor's Regulatory Review Council or approved by the Attorney General's Office.

R9-10-1514. Physical Facilities

A. A licensee shall ensure that an abortion clinic complies with all local building codes, ordinances, fire codes, and zoning requirements. If there are no local building codes, ordinances, fire codes, or zoning requirements, the abortion clinic shall comply with the applicable codes and standards incorporated by reference in A.A.C. R9-1-412.

B. A licensee shall ensure that an abortion clinic provides areas or rooms:

1. That provide privacy for:
 - a. A patient's interview, medical evaluation, and counseling;
 - b. A patient to dress; and
 - c. Performing an abortion procedure;
2. For personnel to dress;
3. With a sink in working order and a flushable toilet;
4. For cleaning and sterilizing equipment and supplies;
5. For storing medical records;
6. For storing equipment and supplies;



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7. For hand washing before the abortion procedure; and
 8. For a patient recovering after an abortion.
- C. A licensee shall ensure that an abortion clinic has an emergency exit to accommodate a stretcher or gurney.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3).