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1 A bill to be entitled
2 An act relating to abortions; amending s. 390.0111, F.S.;
3 restricting the circumstances in which an abortion may be
4 performed in the third trimester or after viability;
5 requiring an abortion clinic to provide conspicuous notice
6 on any form or medium of advertisement that the abortion
7 clinic is prohibited from performing abortions in the
8 third trimester or after viability; requiring a physician
9 that offers to perform or performs terminations of
10 pregnancy to complete continuing education related to
11 ethics; prohibiting a termination of pregnancy from being
12 performed in a location other than a validly licensed
13 hospital, abortion clinic, or physician's office;
14 prohibiting a person from establishing, conducting,
15 managing, or operating an abortion clinic without a valid,
16 current license; prohibiting a person from performing or
17 assisting in performing an abortion on a person in the
18 third trimester or after viability, other than in a
19 hospital; requiring an abortion clinic to be owned and
20 operated by a physician who has received training during
21 residency in performing a dilation-and-curettage procedure
22 or a dilation-and-evacuation procedure; providing a
23 penalty; providing that failure to dispose of fetal
24 remains in accordance with rules of the Department of
25 Health is a misdemeanor of the first degree rather than a
26 misdemeanor of the second degree; clarifying provisions
27 providing that it is a first-degree misdemeanor to
28 unlawfully advertise how to obtain an unlawful abortion;

29 requiring the Department of Health to permanently revoke
30 the license of any health care practitioner who is
31 convicted or found guilty of, or enters a plea of guilty
32 or nolo contendere to, regardless of adjudication, certain
33 felony criminal acts; requiring the Agency for Health Care
34 Administration to submit to the Governor and Legislature
35 an annual report of aggregate statistical data relating to
36 abortions and provide such data on its website; providing
37 that failure to comply with the requirements of the
38 section is grounds for disciplinary action; requiring
39 rulemaking; amending s. 390.0112, F.S.; requiring the
40 director of a medical facility or physician's office to
41 submit a monthly report to the agency on a form developed
42 by the agency consistent with the U.S. Standard Report of
43 Induced Termination of Pregnancy from the Centers for
44 Disease Control and Prevention; requiring the agency to
45 submit reported data to the Division of Reproductive
46 Health within the Centers for Disease Control and
47 Prevention; providing rulemaking authority; amending s.
48 390.012, F.S.; requiring the agency to adopt rules that
49 prescribe standards for placing conspicuous notice on any
50 form or medium of advertisement of an abortion clinic
51 which states that the abortion clinic is prohibited from
52 performing abortions in the third trimester or after
53 viability; amending s. 456.013, F.S.; requiring that each
54 applicable board require a physician who offers to perform
55 or performs terminations of pregnancy to annually complete
56 a board-approved course relating to ethics as part of the

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57 licensure and renewal process; providing that the course
58 counts toward the total number of continuing education
59 hours required for the profession; repealing s. 797.02,
60 F.S., relating to the advertising of drugs for abortions;
61 repealing s. 797.03, F.S., relating to prohibited acts
62 related to abortions and their penalties; providing for
63 severability; providing an effective date.

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65 Be It Enacted by the Legislature of the State of Florida:

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67 Section 1. Subsections (1), (2), (7), and (10) of section
68 390.0111, Florida Statutes, are amended, and subsections (12),
69 (13), and (14) are added to that section, to read:

70 390.0111 Termination of pregnancies.—

71 (1) TERMINATION IN THIRD TRIMESTER; WHEN ALLOWED.—

72 (a) A No termination of pregnancy may not shall be
73 performed after the period at which, in the best medical
74 judgment of the physician, the fetus has attained viability, as
75 defined in subsection (4), or on any person human-being in the
76 third trimester of pregnancy unless the termination of pregnancy
77 is performed in a hospital, and:

78 1.(a) Two physicians certify in writing to the fact that,
79 to a reasonable degree of medical probability, the termination
80 of pregnancy is necessary to prevent the death of the pregnant
81 woman or prevent the substantial and irreversible impairment of
82 a major bodily function save the life or preserve the health of
83 the pregnant woman; or

84 2.(b) The physician certifies in writing to the existence

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85 of a medical emergency, as defined in s. 390.01114(2)(d) ~~medical~~
86 ~~necessity for legitimate emergency medical procedures for~~
87 ~~termination of pregnancy in the third trimester, and another~~
88 physician is not available for consultation.

89 (b) An abortion clinic must provide conspicuous notice on
90 any form or medium of advertisement that the abortion clinic is
91 prohibited from performing abortions in the third trimester or
92 after viability.

93 (2) PHYSICIAN, LOCATION, AND CLINIC LICENSURE AND
94 OWNERSHIP REQUIREMENTS ~~PERFORMANCE BY PHYSICIAN REQUIRED.~~—No
95 termination of pregnancy shall be performed at any time except
96 by a physician as defined in s. 390.011. A physician who offers
97 to perform or performs terminations of pregnancy in an abortion
98 clinic shall annually complete a minimum of 3 hours of
99 continuing education that must relate to ethics.

100 (a) Except for procedures that must be conducted in a
101 hospital or in a medical emergency as defined in s. 390.01114, a
102 termination of pregnancy may not be performed in a location
103 other than in a validly licensed hospital, abortion clinic, or
104 physician's office.

105 (b) A person may not establish, conduct, manage, or
106 operate an abortion clinic without a valid current license.

107 (c) A person may not perform or assist in performing an
108 abortion on a person in the third trimester or after viability,
109 other than in a hospital.

110 (d) Other than abortion clinics licensed before October 1,
111 2011, an abortion clinic must be wholly owned and operated by a
112 physician who has received training during residency in

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113 performing a dilation-and-curettage procedure or a dilation-and-
114 evacuation procedure.

115 (e) A person who willfully violates paragraph (b),
116 paragraph (c), or paragraph (d) commits a misdemeanor of the
117 second degree, punishable as provided in s. 775.082 or s.
118 775.083.

119 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
120 sanitary and appropriate manner and in accordance with standard
121 health practices, as provided by rule of the Department of
122 Health. Failure to dispose of fetal remains in accordance with
123 department rules is a misdemeanor of the first ~~second~~ degree,
124 punishable as provided in s. 775.082 or s. 775.083.

125 (10) PENALTIES FOR VIOLATION.—

126 (a) Except as provided in subsections (3) and (7):

127 1.~~(a)~~ Any person who willfully performs, or actively
128 participates in, a termination of pregnancy procedure in
129 violation of the requirements of this section commits a felony
130 of the third degree, punishable as provided in s. 775.082, s.
131 775.083, or s. 775.084.

132 2.~~(b)~~ Any person who performs, or actively participates
133 in, a termination of pregnancy procedure in violation of the
134 provisions of this section which results in the death of the
135 woman commits a felony of the second degree, punishable as
136 provided in s. 775.082, s. 775.083, or s. 775.084.

137 3. A person who knowingly advertises, prints, publishes,
138 distributes, or circulates, or knowingly causes to be
139 advertised, printed, published, distributed, or circulated, any
140 pamphlet, printed paper, book, newspaper notice, advertisement,

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141 or reference containing words or language giving or conveying
142 any notice, hint, or reference to any person, or the name of any
143 person, real or fictitious, from whom, or to any place, house,
144 shop, or office where any poison, drug, mixture, preparation,
145 medicine, or noxious thing, or any instrument or means whatever,
146 or any advice, direction, information, or knowledge may be
147 obtained for the purpose of performing an abortion in violation
148 of this chapter, commits a misdemeanor of the first degree,
149 punishable as provided in s. 775.082 or s. 775.083.

150 (b) The department shall permanently revoke the license of
151 any licensed health care practitioner who has been convicted or
152 found guilty of, or entered a plea of guilty or nolo contendere
153 to, regardless of adjudication, a felony criminal act provided
154 in paragraph (a).

155 (12) RESPONSIBILITIES OF THE AGENCY.—Before each general
156 legislative session, the agency shall submit to the Governor,
157 the President of the Senate, and the Speaker of the House of
158 Representatives an annual report of aggregate statistical data
159 relating to abortions, which has been reported to the Division
160 of Reproductive Health within the Centers for Disease Control
161 and Prevention, and shall provide such data on its website. Any
162 information required to be reported under this subsection must
163 not include any personal identifying information.

164 (13) FAILURE TO COMPLY.—Failure to comply with the
165 requirements of this section is grounds for disciplinary action
166 under each respective practice act and under s. 456.072.

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167 (14) RULES.—The applicable boards, or the department where
168 there is no board, shall adopt rules necessary to implement the
169 provisions of this section.

170 Section 2. Subsection (1) of section 390.0112, Florida
171 Statutes, is amended, and subsection (5) is added to that
172 section, to read:

173 390.0112 Termination of pregnancies; reporting.—

174 (1) The director of any medical facility or physician's
175 office in which any pregnancy is terminated shall submit a
176 monthly report to the agency, on a form developed by the agency
177 which is consistent with the U.S. Standard Report of Induced
178 Termination of Pregnancy from the Centers for Disease Control
179 and Prevention ~~which contains the number of procedures~~
180 ~~performed, the reason for same, and the period of gestation at~~
181 ~~the time such procedures were performed to the agency.~~ The
182 agency shall be responsible for keeping such reports in a
183 central place from which statistical data and analysis can be
184 made. The agency shall submit reported data to the Division of
185 Reproductive Health within the Centers for Disease Control and
186 Prevention.

187 (5) The agency may adopt rules necessary to implement this
188 section.

189 Section 3. Paragraph (a) of subsection (3) of section
190 390.012, Florida Statutes, is amended to read:

191 390.012 Powers of agency; rules; disposal of fetal
192 remains.—

193 (3) For clinics that perform or claim to perform abortions
194 after the first trimester of pregnancy, the agency shall adopt

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rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter, including the following:

(a) 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 gynecological examination tables and other fixed equipment.

8. Postprocedure recovery rooms that are equipped to meet the patients' needs.

9. Emergency exits to accommodate a stretcher or gurney.

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 agency.

13. Conspicuous notice to be provided on any form or medium of advertisement of the abortion clinic, which must state that the abortion clinic is prohibited from performing abortions in the third trimester or after viability.

Section 4. Subsection (7) of section 456.013, Florida

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Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(7) (a) The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the licensure and renewal process. The 2-hour course shall count towards the total number of continuing education hours required for the profession. The course shall be approved by the board or department, as appropriate, and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. In addition, the course approved by the Board of Medicine and the Board of Osteopathic Medicine shall include information relating to the five most misdiagnosed conditions during the previous biennium, as determined by the board. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

(b) In accordance with the requirement under s. 390.0111, the boards, or the department when there is no board, shall require a physician who offers to perform or performs terminations of pregnancy in an abortion clinic to annually complete a 3-hour board-approved course related to ethics as part of the licensure and renewal process. The 3-hour course shall count toward the total number of continuing education hours required for the profession.

Section 5. Section 797.02, Florida Statutes, is repealed.

Section 6. Section 797.03, Florida Statutes, is repealed.

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251 Section 7. If any provision of this act is held invalid
252 with respect to any person or circumstance, the invalidity does
253 not affect other provisions or applications of the act which can
254 be given effect without the invalid provision or application,
255 and to this end the provisions of this act are declared
256 severable.

257 Section 8. This act shall take effect October 1, 2011.