GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

HOUSE BILL 465

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


For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Health, if favorable, Judiciary IV.

April 2, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND MODIFY CERTAIN LAWS PERTAINING TO ABORTION.

The General Assembly of North Carolina enacts:

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

"§ 14-45.1. When abortion not unlawful.
(a) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a physician, an obstetrician or gynecologist licensed to practice medicine in North Carolina in a hospital or clinic certified by the Department of Health and Human Services to be a suitable facility for the performance of abortions.

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

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

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

The information provided under this subsection shall be for statistical purposes only, and the confidentiality of the patient shall be protected. It is the duty of the physician to submit information to the Department of Health and Human Services that omits identifying information of the patient and complies with HIPPA.
(c) The Department of Health and Human Services shall prescribe and collect on an annual basis, from hospitals or clinics, including ambulatory surgical facilities, where abortions are performed, such representative samplings of statistical summary reports concerning the medical and demographic characteristics of the abortions provided for in this section, including the information described in subsection (b1) of this section as it shall deem to be in the public interest. Hospitals or clinics where abortions are performed shall be responsible for providing these statistical summary reports to the Department of Health and Human Services. The reports shall be for statistical purposes only and the confidentiality of the patient relationship shall be protected.

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

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

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

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

"§ 90-21.82. Informed consent to abortion.
No abortion shall be performed upon a woman in this State without her voluntary and informed consent. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if all of the following conditions are satisfied:

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

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

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

a. That medical assistance benefits may be available for prenatal care,
    childbirth, and neonatal care.

b. That public assistance programs under Chapter 108A of the General
    Statutes may or may not be available as benefits under federal and
    State assistance programs.

c. That the father is liable to assist in the support of the child, even if
    the father has offered to pay for the abortion.

d. That the woman has other alternatives to abortion, including keeping
    the baby or placing the baby for adoption.

e. That the woman has the right to review the printed materials
    described in G.S. 90- 21.83, that these materials are available on a
    State-sponsored Web site, and the address of the State-sponsored
    Web site. The physician or a qualified professional shall orally
    inform the woman that the materials have been provided by the
    Department and that they describe the unborn child and list agencies
    that offer alternatives to abortion. If the woman chooses to view the
    materials other than on the Web site, the materials shall either be
    given to her at least 24 hours—72 hours before the abortion or be
    mailed to her at least 72 hours before the abortion by certified mail,
    restricted delivery to addressee.

f. That the woman is free to withhold or withdraw her consent to the
    abortion at any time before or during the abortion 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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