

Representative Carl Wimmer proposes the following substitute bill:

ABORTION CLINIC LICENSING

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Health Care Facility Licensing and Inspection Act in relation to abortion clinics.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~H~~→ subject to certain exceptions, ←~~H~~ requires annual licensing for abortion clinics that provide abortions during the first and second trimesters of pregnancy;
- ▶ grants rulemaking authority to the Department of Health (department) in relation to licensing of abortion clinics;
- ▶ requires, in order for an abortion clinic to obtain and maintain a license, that the abortion clinic comply with statutory requirements, rules, health and safety standards, and recordkeeping requirements;
- ▶ requires inspection of abortion clinics;
- ▶ requires the department to establish a fee on abortion clinics to pay for the costs relating to this bill;
- ▶ modifies exemptions from the Health Care Facility Licensing and Inspection Act;
- ▶ in order to assist the department in fulfilling the requirements of this bill, requires



150 nursing care facility.

151 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
152 health care programs and services to residents.

153 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
154 therapeutic, or rehabilitative services in the recognized specialty or specialties for which the
155 hospital is licensed.

156 (22) "Substantial compliance" means in a department survey of a licensee, the
157 department determines there is an absence of deficiencies which would harm the physical
158 health, mental health, safety, or welfare of patients or residents of a licensee.

159 (23) ~~It~~ (a) ~~is~~ "Type I abortion clinic" means ~~it~~, **except as provided in**
159a **Subsection (23)(b),** ~~it~~ a facility, including a physician's office, but not
160 including a general acute or specialty hospital, that:

161 ~~It~~ [(a)] (i) ~~is~~ performs abortions, as defined in Section 76-7-301, during the first
161a trimester of
162 pregnancy; and

163 ~~It~~ [(b)] (ii) ~~is~~ does not perform abortions, as defined in Section 76-7-301, after the
163a first trimester
164 of pregnancy.

164a ~~It~~ (b) "Type I abortion clinic" **does not include a facility or physician's office that only**
164b **performs abortions:**

164c (i) **that are necessary to avert:**

164d (A) **the death of the woman on whom the abortion is performed; or**

164e (B) **a serious risk of substantial and irreversible impairment of a major bodily function**
164f **of the woman on whom the abortion is performed;**

164g (ii) **of a fetus that has a defect that is documented by a physician or physicians to be**
164h **uniformly diagnosable and uniformly lethal; or**

164i (iii) **where:**

164j (A) **the woman is pregnant as a result rape, as described in Section 76-5-402, rape of a**
164k **child, as described in Section 76-5-402.1, or incest, as described in Subsection 76-5-406(10) or**
164l **Section 76-7-102; and**

164m (B) **before the abortion is performed, the physician who performs the abortion verifies**
164n **that the incident described in Subsection (23)(b)(iii)(A) has been reported to law enforcement**
164o **and complies with the requirements of Section 62A-4a-403.** ~~It~~

165 (24) ~~It~~ (a) ~~is~~ "Type II abortion clinic" means ~~it~~, **except as provided in**

165a **Subsection (24)(b),** ~~←H~~ a facility, including a physician's office, but not
 166 including a general acute or specialty hospital, that:

167 ~~H→~~ ~~[(a)]~~ **(i)** ~~←H~~ performs abortions, as defined in Section 76-7-301, after the first
 167a trimester of
 168 pregnancy; or

169 ~~H→~~ ~~[(b)]~~ **(ii)** ~~←H~~ performs abortions, as defined in Section 76-7-301, during the first
 169a trimester of
 170 pregnancy and after the first trimester of pregnancy.

170a ~~H→~~ **(b) "Type II abortion clinic" does not include a facility or physician's office that only**
 170b **performs abortions:**

170c **(i) that are necessary to avert:**

170d **(A) the death of the woman on whom the abortion is performed; or**

170e **(B) a serious risk of substantial and irreversible impairment of a major bodily function**
 170f **of the woman on whom the abortion is performed;**

170g **(ii) of a fetus that has a defect that is documented by a physician or physicians to be**
 170h **uniformly diagnosable and uniformly lethal; or**

170i **(iii) where:**

170j **(A) the woman is pregnant as a result rape, as described in Section 76-5-402, rape of a**
 170k **child, as described in Section 76-5-402.1, or incest, as described in Subsection 76-5-406(10) or**
 170l **Section 76-7-102; and**

170m **(B) before the abortion is performed, the physician who performs the abortion verifies**
 170n **that the incident described in Subsection (24)(b)(iii)(A) has been reported to law enforcement**
 170o **and complies with the requirements of Section 62A-4a-403.** ~~←H~~

171 Section 2. Section **26-21-6.5** is enacted to read:

172 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

173 **(1) Beginning on April 1, 2012, a type I abortion clinic may not operate in the state**
 174 **without a license issued by the department to operate a type I abortion clinic.**

175 **(2) A type II abortion clinic may not operate in the state without a license issued by the**
 176 **department to operate a type II abortion clinic.**

177 **(3) (a) The department shall make rules establishing minimum health, safety, sanitary,**
 178 **and recordkeeping requirements for:**

179 **(i) a type I abortion clinic; and**

180 **(ii) a type II abortion clinic.**