



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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COMMISSIONER

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Dear Health Care Facility Administrator/Physician:

During the Texas 82nd Regular Legislative session, the Texas Legislature enacted House Bill 15 (HB 15), which amends the Woman's Right to Know Act (WRTK). The Department of State Health Services (Department) is providing you with this summary of the highlights of HB 15.

All physicians who provide abortions must comply with the requirements of HB 15. HB 15 became law on September 1, 2011, and applies to abortions performed on or after October 1, 2011. This is not a complete analysis of all the requirements of the bill and you are urged to read the bill in its entirety as you are responsible for complying with the terms of HB 15. HB 15 text can be found at: <http://www.dshs.state.tx.us/hfp/hottopics.shtm>.

While HB 15 required sonograms for abortions on or after October 1, 2011, an injunction prevented state officials from enforcing some of the legislation's key provisions. As of January 13, 2012, the injunction was removed and all provisions of the law are in full effect. DSHS will begin enforcement of these provisions immediately. DSHS will review providers' documentation to ensure the abortion providers' compliance with the new requirements of the law.

Effective October 1, 2011:

The physician who is to perform the abortion, or an agent of that physician who is also a certified sonographer, must perform a sonogram on a pregnant woman at least 24 hours before the abortion, or at least two hours before the abortion if the pregnant woman waives this requirement by certifying on the sonogram/abortion election form that she currently lives 100 miles or more from the nearest abortion provider.

- The abortion provider may not accept any payment for an abortion or abortion-related services during the visit to obtain a sonogram. Payment may be accepted for the sonogram.
- The physician who is to perform the abortion must meet with the woman, in person, at least 24 hours before the abortion is to be performed, and provide her with the name of the physician, medical risks associated with the particular abortion procedure, probable gestational age of the unborn child, and the medical risks of carrying the child to term. If the pregnant woman certifies that she currently lives

more than 100 miles from her nearest abortion provider, then the physician may provide this information either in person or over the telephone, at least 24 before the abortion is to be performed. The physician who is to perform the abortion may not delegate these tasks to anyone else, and under no circumstance may this information be provided by audio or video recording.

- **NOTE:** These provisions were not affected by the injunction and will be enforced effective October 1, 2011, with the exception of the certification form. If a sonogram did not occur at least 24 hours before the abortion, there should be documentation in the medical record that the pregnant woman certified she lived 100 miles or more from the nearest abortion provider.

Effective January 13, 2012:

An abortion provider must provide a pregnant woman a list of agencies that provide free sonograms.

- These agencies must not provide abortions or abortion-related services and must not affiliate with or make referrals to abortion providers.
- **NOTE:** The list of free sonogram agencies and all other WRTK information can be found and downloaded at the following website as of the date of this letter:
<http://www.dshs.state.tx.us/wrtk/default.shtm>.
 - For additional questions or concerns related to WRTK, please submit an email to WRTK@dshs.state.tx.us or contact Kim Wilson, State Child Health Coordinator, at (512) 776-2021.

Before receiving a sonogram by the abortion provider, and before any sedative or anesthesia is administered, the pregnant woman must complete the sonogram/abortion election form.

- The sonogram/abortion election form must be retained in the woman's medical record at the location where the abortion was performed.
- **NOTE:** The sonogram/abortion election form can be found and downloaded at the following website as of the date of this letter:
<http://www.dshs.state.tx.us/hfp/apps.shtm#abortion>.

The abortion provider or the physician's agent is required to share certain printed materials with the pregnant woman; the physician who is to perform the abortion is required to display the sonogram images, make the heart beat audible, and provide a verbal explanation of the sonogram results to the pregnant woman:

- A pregnant woman may choose not to view the printed materials after she has been provided the materials.
- A pregnant woman may choose not to view the sonogram images.
- A pregnant woman may choose not to hear the heart auscultation.
- A pregnant woman may choose not to receive the verbal explanation of the results of the sonogram images only if she certifies in writing on the sonogram/abortion election form, one of the following:
 - the pregnancy is a result of a sexual assault, incest, or other violation of the Penal Code that has been reported to law enforcement authorities or that has not been reported because she reasonably believes that to do so would put her at risk of retaliation resulting in serious bodily injury;
 - the woman is a minor and obtaining an abortion in accordance with judicial bypass procedures under Chapter 33, Family Code; or
 - the fetus has an irreversible medical condition or abnormality, as medically documented in the woman's medical file.

In a medical emergency, an abortion provider may perform an abortion without obtaining a sonogram and must:

- include in the patient's medical record a signed statement on the medical emergency form, certifying the nature of the emergency; and
- not later than 30 days after the date of the abortion, submit the medical emergency form to the Department.
- **NOTE:** The medical emergency form can be found and downloaded at the following website as of the date of this letter:
<http://www.dshs.state.tx.us/hfp/apps.shtm#abortion>.

If the pregnant woman declines to proceed with an abortion after being provided with the information required by law, then the physician or agent of that physician must provide her with a state publication with information on paternity establishment and child-support obligations.

For questions or concerns related to facility licensing and regulations, please submit an email to ellen.cooper@dshs.state.tx.us or contact Ellen Cooper, Health Facilities Licensing Group Manager, at (512) 834-6639.

Sincerely,

Amy S. Harper
Regulatory Licensing Unit Manager
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Texas Department of State Health Services

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