

HOUSE BILL NO. HB0042

Regulation of surgical abortions.

Sponsored by: Representative(s) Lawley, Angelos, Geringer, Haroldson, Heiner, Larson, JT, Lien and Rodriguez-Williams and Senator(s) Boner, Brennan, Olsen and Steinmetz

A BILL

for

1 AN ACT relating to public health and safety; requiring the  
2 licensure of surgical abortion facilities as specified;  
3 providing criminal penalties for violations; specifying  
4 civil liability for damages resulting from abortions;  
5 providing definitions; making conforming amendments;  
6 specifying applicability; requiring rulemaking; and  
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 35-6-201 through 35-6-204 are created  
12 to read:

13

14

ARTICLE 2



1 (C) Treat a woman for an ectopic pregnancy;

2 or

3

4 (D) Provide treatment for a pregnant woman

5 when a medical procedure or treatment is necessary, based

6 on reasonable medical judgment, to save or preserve the

7 life of the pregnant woman.

8

9 (ii) "Ectopic pregnancy" means the state of  
10 carrying an unborn child outside of the uterine cavity;

11

12 (iii) "Hospital" means those institutions  
13 licensed by the Wyoming department of health as hospitals;

14

15 (iv) "Intrauterine fetal demise" means the death  
16 of an unborn child inside the uterine cavity after twenty  
17 (20) weeks of pregnancy;

18

19 (v) "Miscarriage" means the spontaneous loss of  
20 the unborn child;

21

22 (vi) "Physician" means any person licensed to  
23 practice medicine in this state;

1

2           (vii) "Pregnancy" or "pregnant" means the human  
3 female reproductive condition of having a living unborn  
4 baby or human being within a human female's body throughout  
5 the entire embryonic and fetal stages of the unborn human  
6 being from fertilization to full gestation and childbirth;

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8           (viii) "Reasonable medical judgment" means a  
9 medical judgment that would be made or a medical action  
10 that would be undertaken by a reasonably prudent, qualified  
11 physician who is knowledgeable about the case and the  
12 treatment possibilities with respect to the medical  
13 conditions involved;

14

15           (ix) "Surgical abortion" means an induced  
16 abortion performed or attempted through use of a machine,  
17 medical device, surgical instrument or surgical tool, or  
18 any combination thereof, to terminate the clinically  
19 diagnosable pregnancy of a woman with knowledge and the  
20 intent that the termination by those means will cause, with  
21 reasonable likelihood, the death of the unborn child;

22

1           (x) "Surgical abortion facility" means any  
2 facility that provides a surgical abortion to a woman and  
3 performs not less than three (3) first-trimester surgical  
4 abortions in any one (1) month or not less than one (1)  
5 second-trimester or third-trimester surgical abortion in  
6 any one (1) year.

7

8           **35-6-202. Surgical abortion facilities; licensure**  
9 **requirement; prohibitions; penalties.**

10

11           (a) Each surgical abortion facility in Wyoming shall  
12 be licensed as an ambulatory surgical center in accordance  
13 with W.S. 35-2-901 through 35-2-914 and the rules of the  
14 department of health. Each surgical abortion facility  
15 performing surgical abortions shall have a separate  
16 license.

17

18           (b) No surgical abortion facility shall provide  
19 surgical abortions to any pregnant woman without first  
20 being licensed as an ambulatory surgical center.

21

22           (c) Each surgical abortion facility shall comply with  
23 all rules of the department of health concerning the

1 operation and regulation of ambulatory surgical centers. No  
2 license issued to a surgical abortion facility shall be  
3 transferable or assignable to any other person or facility.  
4

5 (d) Each licensed physician performing at least one  
6 (1) surgical abortion at a surgical abortion facility  
7 shall:

8  
9 (i) Report each surgical abortion to the  
10 department of health and attest in the report that the  
11 physician is licensed and in good standing with the state  
12 board of medicine;

13  
14 (ii) Submit documentation in a form and  
15 frequency required by the department of health that  
16 demonstrates that the licensed physician has admitting  
17 privileges at a hospital located not more than ten (10)  
18 miles from the abortion facility where the licensed  
19 physician is performing or will perform surgical abortions.

20  
21 (e) Any person who violates this section shall be  
22 guilty of a misdemeanor punishable by a fine not to exceed  
23 one thousand dollars (\$1,000.00). Each calendar day in

1 which a violation of this section occurs or continues is a  
2 separate offense.

3

4 **35-6-203. Abortion facilities; surgical abortions;**  
5 **requirements; rulemaking.**

6

7 (a) Any surgical abortion performed in the state  
8 shall only be performed by a physician licensed in the  
9 state of Wyoming.

10

11 (b) Any person who performs a surgical abortion in  
12 the state in violation of subsection (a) of this section is  
13 guilty of a felony punishable by imprisonment for not less  
14 than one (1) year nor more than fourteen (14) years.

15

16 (c) No person shall perform a surgical abortion in  
17 Wyoming who is not a licensed physician with admitting  
18 privileges at a hospital located not more than ten (10)  
19 miles from the abortion facility where the surgical  
20 abortion is performed.

21

22 (d) Any person who violates subsection (c) of this  
23 section shall be guilty of a misdemeanor punishable by a

1 fine of one thousand dollars (\$1,000,00). For purposes of  
2 this subsection, each surgical abortion shall constitute a  
3 separate offense of subsection (c) of this section.

4

5 (e) The department of health shall promulgate rules  
6 necessary to regulate surgical abortion facilities as  
7 ambulatory surgical centers under W.S. 35-2-901 through  
8 35-2-914. Rules promulgated under this subsection shall:

9

10 (i) Not be less stringent than those rules  
11 applicable to ambulatory surgical centers;

12

13 (ii) Provide for the physical inspection of  
14 surgical abortion facilities by the department of health  
15 every three (3) years.

16

17 **35-6-204. Applicability; effect.**

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19 If any provision of this article conflicts with the Life is  
20 a Human Right Act or W.S. 35-6-139, the provisions of the  
21 Life is a Human Right Act and W.S. 35-6-139 shall control  
22 over this article to the extent that the Life is a Human  
23 Right Act and W.S. 35-6-139 are in effect.



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2       **Section 2.** W.S. 35-2-901(a)(ii) is amended to read:

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4       **35-2-901. Definitions; applicability of provisions.**

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6       (a) As used in this act:

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8               (ii) "Ambulatory surgical center" means a  
9 facility which provides surgical treatment to patients not  
10 requiring hospitalization and is not part of a hospital or  
11 offices of private physicians, dentists or podiatrists.  
12 "Ambulatory surgical center" shall include any surgical  
13 abortion facility as defined by W.S. 35-6-201(a)(x);

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15       **Section 3.**

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17       (a) Nothing in this act shall be construed as  
18 creating an individual right to abortion.

19

20       (b) It is the intent of the legislature that this act  
21 shall not:

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1           (i) Be construed as holding abortion as lawful  
2 in the state;

3

4           (ii) Recognize or define abortion as a health  
5 care decision under article 1, section 38 of the Wyoming  
6 Constitution.

7

8           **Section 4.** The department of health shall promulgate  
9 all rules necessary to implement this act.

10

11           **Section 5.** This act is effective immediately upon  
12 completion of all acts necessary for a bill to become law  
13 as provided by Article 4, Section 8 of the Wyoming  
14 Constitution.

15

16

(END)