

Abortion Facility Oversight and Regulation

Overview of Regulation of Health Care Facilities and Providers in Minnesota

Under current law (Minn. Stat. §§ 144.12 and 144.55-144.56), the Minnesota Department of Health (MDH) has responsibility to inspect licensed hospitals and ambulatory surgical centers, long-term care facilities and nursing homes (*see also* Minnesota Rules, chapter 4675, et seq.).

MDH does not have the authority to license and inspect medical clinics, which includes facilities that perform abortions. MDH also does not have the authority to license medical providers, including providers that perform abortions. That does not mean those facilities and providers are not regulated. All facilities and providers, including those that perform abortions, are regulated by a collection of public and private entities. The general framework of health care regulation is a multilayered approach:

- **Providers:** Licensed by the State Health Care Licensing Boards to ensure quality standards of care after attending accredited medical schools or programs. They are also required by payers (insurance companies, etc.) and/or employers (hospitals, clinics) to be properly credentialed. The credentialing licensure boards also respond to complaints against providers.
- **Facilities** (clinics and hospitals): Inspected and regulated by numerous governmental entities for a variety of clinical quality and structural issues. The federal government has various regulations required by the Center for Medicare and Medicaid Services. The state has requirements set by statute, while local governments enforce local building and fire codes.

Most facilities and some providers seek non-governmental accreditation as well. Some of the private organizations that regulate health care facilities or providers include:

- Accreditation Association for Ambulatory Health Care – Clinics
- Joint Commission – Hospitals
- National Committee of Quality Assurance – Health Plans
- Various Specialist Certifications – Providers

Licensure of Abortion Facilities (MS 145.416)

Various Minnesota laws on abortion services were ruled unconstitutional after the 1973 Supreme Court decision, *Roe v. Wade*. In 1974, Minnesota enacted Minnesota Statutes, section 145.416, requiring the Commissioner of Health to license and promulgate rules for facilities delivering abortion services. MDH adopted rules in 1974, however, those rules (with the exception of provisions relating to consent forms and the submission of statistical data) were ruled unconstitutional by a federal district court in 1977. Since those rules have been permanently enjoined, there is no legal basis to develop a licensing structure for these facilities.

Abortion Reporting in Minnesota

In 1998, Minnesota enacted law to require additional reporting by all physicians licensed and practicing in Minnesota who perform abortions and by all Minnesota facilities in which abortions are performed (Minn. Stat. §§ 145.4131 – 145.4136). A report must be completed and submitted to the Minnesota Department of Health for each procedure. The “Report to the Legislature: Induced Abortions in Minnesota” can be found on the MDH website:

www.health.state.mn.us/divs/chs/abrpt/abrpt.htm