

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 439

Short Title: RBG Act.

(Public)

Sponsors: Representatives von Haefen, Butler, Prather, and Cervania (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

March 23, 2023

A BILL TO BE ENTITLED

AN ACT TO REMOVE BARRIERS TO GAIN ACCESS TO ABORTION ACT (RBG ACT).

Whereas, the ability to access safe and legal abortion is a critical component of a patient's health and dignity, as well as independence, freedom, and equality; and

Whereas, throughout pregnancy, patients must be able to make their own health care decisions with the advice of health care professionals they trust and without government interference; and

Whereas, North Carolina has limited access to abortion services by enacting a growing number of hurdles, restrictions, and requirements that serve no medical purpose and are intended to make it more difficult for patients to access health care; and

Whereas, the impact of abortion restrictions is predominantly felt by those who already experience systemic barriers to health care, including young people, people of color and those with disabilities, individuals with low incomes, and those who live in rural areas or are undocumented; Now, therefore,

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 any other provision, it shall not be unlawful, during the first 20 weeks of a woman's pregnancy, before a pregnancy is viable, to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a qualified physician 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.~~ health care provider.

~~(a1) The Department of Health and Human Services shall annually inspect any clinic, including ambulatory surgical facilities, where abortions are performed. The Department of Health and Human Services shall publish on the Department's Web site and on the State Web site established under G.S. 90-21.84 the results and findings of all inspections conducted on or after January 1, 2013, of clinics, including ambulatory surgical facilities, where abortions are performed, including any statement of deficiencies and any notice of administrative action resulting from the inspection. No person who is less than 18 years of age shall be employed at any clinic, including ambulatory surgical facilities, where abortions are performed. The requirements of this subsection shall not apply to a hospital required to be licensed under Chapter 131E of the General Statutes.~~

(b) ~~Notwithstanding any of the provisions of G.S. 14-44 and 14-45, any other provision, it shall not be unlawful, after the twentieth week of a woman's pregnancy, after a pregnancy is~~



1 viable, to advise, procure or cause a miscarriage or abortion when the procedure is performed by
2 a qualified physician licensed to practice medicine in North Carolina in a hospital licensed by the
3 Department of Health and Human Services, health care provider, if there is a medical emergency
4 as defined by G.S. 90-21.81(5).in this section.

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

12 A qualified physician who procures or causes a miscarriage or abortion after the twentieth
13 week of a woman's pregnancy shall record the findings and analysis on which the qualified
14 physician based the determination that there existed a medical emergency as defined by
15 G.S. 90-21.81(5) and shall provide that information to the Department of Health and Human
16 Services pursuant to G.S. 14-45.1(e). Materials generated by the physician or provided by the
17 physician to the Department of Health and Human Services pursuant to this section shall not be
18 public records under G.S. 132-1.

19 The information provided under this subsection shall be for statistical purposes only, and the
20 confidentiality of the patient and the physician shall be protected. It is the duty of the qualified
21 physician to submit information to the Department of Health and Human Services that omits
22 identifying information of the patient and complies with Health Insurance Portability and
23 Accountability Act of 1996 (HIPAA).

24 (e) The Department of Health and Human Services shall prescribe and collect on an
25 annual basis, from hospitals or clinics, including ambulatory surgical facilities, where abortions
26 are performed, statistical summary reports concerning the medical and demographic
27 characteristics of the abortions provided for in this section, including the information described
28 in subsection (b1) of this section as it shall deem to be in the public interest. Hospitals or clinics
29 where abortions are performed shall be responsible for providing these statistical summary
30 reports to the Department of Health and Human Services. The reports shall be for statistical
31 purposes only and the confidentiality of the patient relationship shall be protected. Materials
32 generated by the physician or provided by the physician to the Department of Health and Human
33 Services pursuant to this section shall not be public records under G.S. 132-1.

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

36 (e) No physician, nurse, or any other health care provider who shall state an objection to
37 abortion on moral, ethical, or religious grounds shall be required to perform or participate in
38 medical procedures which result in an abortion. The refusal of a physician, nurse, or health care
39 provider to perform or participate in these medical procedures shall not be a basis for damages
40 for the refusal, or for any disciplinary or any other recriminatory action against the physician,
41 nurse, or health care provider. For purposes of this section, the phrase "health care provider" shall
42 have the same meaning as defined under G.S. 90-410(1).

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

45 (g) For purposes of this section, "qualified physician" means (i) a physician who
46 possesses, or is eligible to possess, board certification in obstetrics or gynecology, (ii) a physician
47 who possesses sufficient training based on established medical standards in safe abortion care,
48 abortion complications, and miscarriage management, or (iii) a physician who performs an
49 abortion in a medical emergency as defined by G.S. 90-21.81(5).Definitions. – The following
50 definitions apply in this section:

1 "(a) Subject to subsection (a1) of this section, any minor may give effective consent to a
2 physician licensed to practice medicine in North Carolina for medical health services for the
3 prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under
4 G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional
5 disturbance. This section does not authorize ~~the inducing of an abortion,~~ performance of a
6 sterilization ~~operation,~~ operation or admission to a 24-hour facility licensed under Article 2 of
7 Chapter 122C of the General Statutes except as provided in G.S. 122C-223. This section does
8 not prohibit the admission of a minor to a treatment facility upon his own written application in
9 an emergency situation as authorized by G.S. 122C-223."

10 **SECTION 2.(e)** G.S. 90-21.120 reads as rewritten:

11 "**§ 90-21.120. Definitions.**

12 The following definitions apply in this Article:

13 (1) Abortion. – As defined in G.S. 90-21.81(1). The use or prescription of any
14 instrument, medicine, drug, or other substance or device intentionally to
15 terminate the pregnancy of a woman known to be pregnant with an intention
16 other than to increase the probability of a live birth.

17 (2) ~~Attempt to perform an abortion. – As defined in G.S. 90-21.81(2).~~

18 (3) ~~Woman. – As defined in G.S. 90-21.81(11).~~"

19 **SECTION 2.(f)** G.S. 90-21.121 is repealed.

20 **SECTION 2.(g)** Article 1I of Chapter 90 of the General Statutes is repealed.

21 **SECTION 2.(h)** This section is effective when it becomes law.

22 **SECTION 3.(a)** G.S. 143C-6-5.5 is repealed.

23 **SECTION 3.(b)** G.S. 135-48.50 reads as rewritten:

24 "**§ 135-48.50. Coverage mandates.**

25 The Plan shall provide coverage subject to the following coverage mandates:

26 (1) Abortion coverage. – The Plan shall not provide coverage for abortions for
27 which State funds could not be used under G.S. 143C-6-5.5. The Plan shall,
28 however, shall provide coverage for subsequent complications or related
29 charges arising from an abortion not covered under this subdivision.
30 abortion.

31 "

32 **SECTION 4.(a)** G.S. 58-51-63 is repealed.

33 **SECTION 4.(b)** This section is effective 30 days after it becomes law and applies to
34 contracts entered into, amended, or renewed on or after that date.

35 **SECTION 5.(a)** G.S. 153A-92(d) reads as rewritten:

36 "(d) A county may purchase life insurance or health insurance or both for the benefit of
37 all or any class of county officers and employees as a part of their compensation. A county may
38 provide other fringe benefits for county officers and employees. ~~In providing health insurance to~~
39 ~~county officers and employees, a county shall not provide abortion coverage greater than that~~
40 ~~provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter~~
41 ~~135 of the General Statutes."~~

42 **SECTION 5.(b)** G.S. 160A-162(b) reads as rewritten:

43 "(b) The council may purchase life, health, and any other forms of insurance for the benefit
44 of all or any class of city employees and their dependents, and may provide other fringe benefits
45 for city employees. ~~In providing health insurance to city employees, the council shall not provide~~
46 ~~abortion coverage greater than that provided by the State Health Plan for Teachers and State~~
47 ~~Employees under Article 3B of Chapter 135 of the General Statutes."~~

48 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
law.