

### **Requirements S.C. Code Ann. § 44-41-450:**

The South Carolina Fetal Heartbeat and Protection from Abortion Act, S.C. Code Ann. § 44-41-610 *et Seq.* (the Heartbeat Act) criminalizes persons who perform abortions unless one of several exceptions is met:

- The pregnancy is a result of rape, and the gestational age of the fetus is less than twenty (20) weeks (physician must report to Sheriff's Office within 24 hours);
- The pregnancy is the result of incest, and the gestational age of the fetus is less than twenty (20) weeks (physician must report to Sheriff's Office within 24 hours);
- To prevent the death of the pregnant woman or to prevent the serious risk of a substantial and irreversible impairment of a major bodily function of the pregnant person;
- The fetus has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life-preserving treatment, would be incompatible with sustaining life after birth;
- There is no fetal heartbeat.

If one of the above exceptions is applicable, the physician must still comply with a number of other requirements of the Heartbeat Act. In particular, the abortion provider must:

- Perform an obstetric ultrasound on the pregnant person, which displays the image for the pregnant person to see the image, and record a written medical description of the fetal heartbeat;
- Make the fetal heartbeat audible for the pregnant person to hear (if the gestational age is at least eight weeks);
- Document the reason for the abortion;
- Maintain the documentation supporting the need for the abortion for at least seven (7) years;
- The abortion must be reported by the facility where the abortion took place to DHEC.

In the event of a medical emergency where an immediate abortion is required to save the life of the pregnant person and the above requirements for an audible fetal heartbeat cannot be met, the physician must note the following:

- The physician's belief that a medical emergency necessitating the abortion existed;
- The medical condition of the pregnant woman that assertedly prevent compliance with the audible fetal heartbeat requirement;
- The medical rationale to support the physician's conclusion that the pregnant woman's medical condition necessitated the immediate abortion of her pregnancy to avert her **death**;
- The physician must keep the above notations for a minimum of seven (7) years.

**Reporting Requirements S.C. Code Ann. § 44-41-450:**

(A) Any abortion performed in this State pursuant to Section 44-41-450 must be reported by the licensed facility on the standard form for reporting abortions to the state registrar, Department of Health and Environmental Control, within seven days after the abortion is performed. The names of the patient and physician may not be reported on the form or otherwise disclosed to the state registrar. The form must indicate from whom consent was obtained or circumstances waiving consent and must include:

(1) Post-fertilization age:

(a) if a determination of probable post-fertilization age was made, whether ultrasound was employed in making the determination, and the week of probable post-fertilization age determined; or

(b) if a determination of probable post-fertilization age was not made, the basis of the determination that a medical emergency existed.

(2) Method of abortion, of which the following was employed:

(a) medication abortion such as, but not limited to, mifepristone/misoprostol or methotrexate/misoprostol;

(b) manual vacuum aspiration;

(c) electrical vacuum aspiration;

(d) dilation and evacuation;

(e) combined induction abortion and dilation and evacuation;

(f) induction abortion with prostaglandins;

(g) induction abortion with intra-amniotic instillation such as, but not limited to, saline or urea;

(h) induction abortion; and

(i) intact dilation and extraction (partial-birth).

(3) Whether an intrafetal injection was used in an attempt to induce fetal demise such as, but not limited to, intrafetal potassium chloride or digoxin.

(4) Age of the patient.

(5) If the probable post-fertilization age was determined to be twenty or more weeks, whether the reason for the abortion was a medical emergency or fetal anomaly, and if the reason was a medical

emergency, the basis of the determination that the pregnant woman had a condition which so complicated her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

(6) If the probable post-fertilization age was determined to be twenty or more weeks, whether or not the method of abortion used was one that, in reasonable medical judgment, provided the best opportunity for the unborn child to survive and, if such a method was not used, the basis of the determination that termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods.

(7) The information related to fetal heartbeat testing required pursuant to Sections 44-41-630, 44-41-660, and 44-41-690, as applicable.

(8) Whether the reason for the abortion was to preserve the health of the pregnant woman and, if so, the medical condition that the abortion was asserted to address and the medical rationale for the conclusion that an abortion was necessary to address that condition. If the reason for the abortion was other than to preserve the health of the pregnant woman, then the report must specify that maternal health was not the purpose of the abortion. This information must also be placed in the pregnant woman's medical records and maintained for at least seven years thereafter.

(B) Reports required by subsection (A) shall not contain the name or the address of the patient whose pregnancy was terminated, nor shall the report contain any other information identifying the patient, except that each report shall contain a unique medical record identifying number, to enable matching the report to the patient's medical records. Such reports must be maintained in strict confidence by the department, must not be available for public inspection, and must not be made available except:

(1) to the Attorney General or solicitor with appropriate jurisdiction pursuant to a criminal investigation;

(2) to the Attorney General or solicitor pursuant to a civil investigation of the grounds for an action under Section 44-41-480(B); or

(3) pursuant to court order in an action under Section 44-41-480.

(C) By June thirtieth of each year, the department shall issue a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with this section for each of the items listed in subsection (A). Each such report also shall provide the statistics for all previous calendar years during which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The department shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed, induced, or attempted.

(D) Any facility that fails to submit a report by the end of thirty days following the due date must be subject to a late fee of one thousand dollars for each additional thirty-day period or portion of a thirty-day period the report is overdue. Any facility required to report in accordance with this article that has not submitted a report, or has submitted only an incomplete report, more than six months following the due date, may, in an action brought by the department, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to civil contempt. Intentional or reckless falsification of any report required under this section is a misdemeanor punishable by not more than one year in prison.

(E) Within ninety days of the effective date of this article, the Department of Health and Environmental Control shall adopt and promulgate forms and regulations to assist in compliance with this section. Subsection (A) shall take effect so as to require reports regarding all abortions performed or induced on and after the first day of the first calendar month following the effective date of such rules.