

## **1. What's new in Woman's Right To Know?**

During the 2007 legislative session the Woman's Right To Know Act, found at Georgia Code Title 31, Chapter 9A, was amended to require that for all cases in which an ultrasound is performed prior to conducting an abortion or a pre-abortion screen, the woman must be offered the opportunity to view the ultrasound and listen to the fetal heart rate. Although, they are not required to view or to listen, this opportunity must be extended and a completed consent placed in the chart signed by the woman indicating individually whether she declined or accepted to:

- View the ultrasound
- Listen to the heart beat

Medical providers in licensed abortion facilities who provide information to pregnant women under these laws must continue to submit the WRTK Annual Reporting form as they did previously by February 28, 2009.

## **2. What are the requirements of the law regarding parental notification?**

- A minor's parent or guardian must be provided 24 hours notice in person or by telephone that the abortion is to be performed.
- Unemancipated minors under the age of 18 seeking an abortion must be accompanied by a parent or guardian who shall show proper identification and state that he or she is the lawful parent or guardian of the minor, if notice has not otherwise been provided to the parent or guardian.
- A physician or physician's agent can give written notice of the pending abortion sent by certified mail with return receipt required to the parent or guardian. The notice is considered delivered 48 hours after mailing, if proof is not established sooner.
- The abortion may be performed 24 hours after the notice has been delivered if the parent(s) or guardian(s) state in writing that they do not wish to consult with the minor or that they have been previously informed.
- Minors are required to sign a form stating that they consent "freely and without coercion" to the abortion.
- If the physician or physician's qualified agent elects not to comply with the parental notification requirements, or the parent or legal guardian can not be located, the minor or minor's next friend can petition any juvenile court in the state to have the parental notification requirements waived.

See O.C.G.A. § 15-11-112

## **3. How does the law define "physician"?**

"Physician" means a person licensed to practice medicine under Article 2 of Chapter 34 of Title 43.

See O.C.G.A. § 31-9A-2

4. **How does the law define “qualified agent?”**

“Qualified agent” means the agent of the physician who is a patient educator, licensed psychologist, licensed social worker, licensed professional counselor, licensed physician’s assistant, registered nurse, or physician.

See O.C.G.A. § 31-9A-2

5. **How does the law define “proper identification?”**

“Proper identification” means any document issued by a governmental agency containing a description of the person, the person’s photograph, or both, including, but not limited to, a driver’s license, an identification card or similar identification card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the United States Immigration and Naturalization Service.

See O.C.G.A. §15-11-111

6. **How does the law define “unemancipated minor?”**

“Unemancipated minor” means any person under the age of 18 who is not or has not been married or who is under the care, custody, and control of such person’s parent or parents, guardian, or the juvenile court of competent jurisdiction.

See O.C.G.A. §15-11-111

7. **How does the law define “abortion?”**

“Abortion” means the use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a female known to be pregnant. The term “abortion” shall not include the use or prescription of any instrument, medicine, drug, or any other substance or device employed solely to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as a result of a spontaneous abortion. The term “abortion” also shall not include the prescription or use of contraceptives.

See O.C.G.A. §§15-11-111 & 31-9A-2.

8. **How does the law define “unborn child” or “fetus?”**

“Unborn child” or “fetus” means a member of the species homo sapiens from fertilization until birth.

See O.C.G.A. § 31-9A-2

**9. What information is a physician required to provide to the female prior to performing the abortion?**

The physician or referring physician, or the qualified agent of either physician, who is to perform the abortion, is responsible for informing the female, in person or by telephone (cannot be provided by tape recording), at least 24 hours before the abortion, of the following information:

- The particular medical risks associated with the abortion procedure to be employed, when medically accurate;
- The probable gestational age of the unborn child at the time the abortion is to be performed; and
- The medical risks associated with carrying the unborn child to term.
- That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;
- That the father will be liable to assist in the support of her child; and
- That she has the right to review printed materials published by DHR that describe the unborn child, list agencies that provide alternatives to abortion, and contain information on fetal pain, and that these materials are available on a state sponsored website (<http://health.state.ga.us/wrtk/>)

See O.C.G.A. § 31-9A-3

**10. How does the law define “probable gestational age of the unborn child?”**

“Probable gestational age of the unborn child” means the physician’s best professional estimate of the probable gestational age of the unborn child at the time an abortion is to be performed.

See O.C.G.A. §31-9A-2

**11. What if a female does not choose to view the required information on the state website?**

If a female chooses to view materials other than on the website, they shall be provided to her at least 24 hours prior to the abortion or mailed to her at least 72 hours before the abortion by certified mail, restricted delivery to addressee.

See O.C.G.A. §31-9A-3 (2)(C)

**12. What confirmation must the female provide with regard to having received the required information?**

The female must state in writing, prior to the abortion that all of the required information has been furnished to her and she has been informed of her opportunity to review it. The physician who is to perform the abortion or the physician’s agent must obtain a copy of

the required written certification and retain it on file with the female's medical record for at least three years.

See O.C.G.A. §31-9A-3(3) & (4)

**13. What materials must the Georgia Department of Human Resources (DHR) make available?**

DHR is responsible for having the following information available in print and on a secure state website:

- Geographically indexed materials designed to inform the female of public and private agencies and services available to assist her through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies. The index will include a list of the agencies, a description of the services they offer, and how they may be contacted, including telephone numbers and website addresses (<http://health.state.ga.us/wrtk/services.asp>). Materials designed to inform the female of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a female can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival and pictures representing the development of the unborn child at two-week gestational increments. (See Resource Directory for Pregnant Women and Their Families)
- Materials must also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, the possible detrimental psychological effects of abortion, and the medical risks commonly associated with carrying an unborn child to term. (<http://health.state.ga.us/wrtk/patienteducation.asp>). See O.C.G.A. § 31-9A-4

**14. What type of physician reporting does this law require?**

Physicians who perform abortions in a DHR licensed facility are required to provide an annual report to DHR by February 28th of each year regarding their compliance with the law. Reporting requirements include: the numbers of females informed and parents/guardians contacted, the numbers of parents/guardians who waive consent, the number of emancipated minors, the number who obtained judicial consent, and abortions performed in each of these categories.

See O.C.G.A. §31-9A-6

**15. Does the Health Insurance Portability and Accountability Act (HIPAA) apply to physician reporting under this Act?**

No, because medical providers are only reporting aggregate, de-identified information. Medical providers are not reporting protected health information since the information being reported is not individually identifiable.

**16. When do reporting requirements begin?**

The Act requires physicians in licensed abortion facilities to submit reports to DHR by February 28th of each year for the previous calendar year (January 1 through December 31) in which the law was in effect. DHR created a secure website that will be available to physicians for reporting from January 1 through February 28 of each year. The first report required under this law is for calendar year 2006 and will be due by February 28, 2007. The link to this site is: <http://health.state.ga.us/wrtk/physicians.asp>.

For example: If a physician in a DHR licensed facility performed an abortion on an unemancipated minor between Jan 1, 2006 through December 31, 2006, then that physician must submit a report to DHR beginning January 1, 2007 and no later than February 28, 2007.

See O.C.G.A. § 31-9A-6

**17. When will physicians receive the reporting forms?**

DHR is required to provide reporting forms to all health facilities licensed as abortion facilities by DHR.

**18. How will DHR use the data reported by physicians in licensed abortion facilities?**

The law requires DHR to issue a public report, by June 30th of each year, providing statistics for the previous calendar year compiled from all the reports.

See O.C.G.A. § 31-9A-6(f)

**19. What are the consequences if a physician covered by this law fails to submit a report or fails to submit one in a timely fashion?**

Under the law, late reports are subject to a late fee of \$500.00 for that reporting period and for each 30-day period, or portion of a 30-day period, in which the report remains overdue. A physician in a licensed abortion facility who fails to submit a report for more than one year following the due date, may be directed by court order to submit such report or be subject to sanctions for civil contempt.

See O.C.G.A. §31-9A-6(e)

**20. What level of privacy does the law require DHR to provide with regard to the data reported by physicians?**

DHR must ensure that the information included in the public reports cannot reasonably lead to identification of any individual female. DHR is also required to ensure that the names and identities of the physicians filing reports remain confidential. DHR is not

permitted to collect or maintain information regarding who uses the website, but is required to monitor the website on a weekly basis to prevent and correct tampering.

See O.C.G.A. §§ 31-9A-6(f), 31-9A-6 (h).

**21. How does the law define “medical emergency?”**

“Medical emergency” means any condition, which, on the basis of the physician’s good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial or irreversible impairment of a major bodily function. See O.C.G.A. § 31-9A-2

**22. What requirements must a physician follow in case of a medical emergency?**

When a medical emergency compels the performance of an abortion, the physician shall inform the female prior to the abortion, if medically reasonable and prudent, of the medical indications supporting the physician’s judgment that an abortion is medically necessary to avert her death or that a 24 hour delay will create serious risk of substantial or irreversible impairment of a major bodily function. See O.C.G.A. § 31-9A-5

**23. Will DHR supply physicians and other interested individuals with copies of the printed materials?**

Yes, DHR will make the printed materials available at no cost upon request. Additionally, the materials will be accessible on the web at <http://health.state.ga.us/wrtk/> and from the CDs that will be distributed to Georgia physicians. Requests for printed copies can be made through the website.

See O.C.G.A. §31-9A-4(c)

**24. Will DHR make the printed materials available in languages other than English?**

Yes, the WRTK patient education booklet and Resource Guide for Pregnant Women and their Families will be available in Spanish. The law requires DHR to publish materials in English and in each language which is the primary language of 2 percent or more of the state’s population. See O.C.G.A. § 31-9A-4