

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 594

FINAL READING

Introduced by Dierks, 40; McCoy, 39; Pirsch, 4.

Read first time January 21, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to abortion; to amend sections 28-325,
2 28-340, and 38-2021, Reissue Revised Statutes of
3 Nebraska, and sections 28-101, 28-326, 28-327, 28-327.01,
4 28-327.03, and 28-327.04, Revised Statutes Supplement,
5 2009; to state and restate legislative findings and
6 declarations; to define and redefine terms; to change
7 provisions relating to voluntary and informed consent
8 to an abortion; to prohibit waivers, provide additional
9 remedies, provide requirements for certain civil actions,
10 provide burdens of proof, provide for tolling statute of
11 limitations, and restrict applicability to criminal and
12 disciplinary actions; to require information regarding
13 certain service agencies to be made available on

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1 the Internet; to harmonize provisions; to provide
2 severability; and to repeal the original sections.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Supplement,
2 2009, is amended to read:

3 28-101 Sections 28-101 to 28-1356 and sections 5 to 11 of
4 this act shall be known and may be cited as the Nebraska Criminal
5 Code.

6 Sec. 2. Section 28-325, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 28-325 The Legislature hereby finds and declares:

9 (1) That the following provisions were motivated by
10 the legislative intrusion of the United States Supreme Court by
11 virtue of its decision removing the protection afforded the unborn.
12 Sections 28-325 to 28-345 and sections 5 to 11 of this act are in
13 no way to be construed as legislatively encouraging abortions at
14 any stage of unborn human development, but are rather an expression
15 of the will of the people of the State of Nebraska and the members
16 of the Legislature to provide protection for the life of the unborn
17 child whenever possible;

18 (2) That the members of the Legislature expressly deplore
19 the destruction of the unborn human lives which has and will occur
20 in Nebraska as a consequence of the United States Supreme Court's
21 decision on abortion of January 22, 1973;

22 (3) That it is in the interest of the people of the State
23 of Nebraska that every precaution be taken to insure the protection
24 of every viable unborn child being aborted, and every precaution
25 be taken to provide life-supportive procedures to insure the unborn

1 child its continued life after its abortion;

2 (4) That currently this state is prevented from providing
3 adequate legal remedies to protect the life, health, and welfare of
4 pregnant women and unborn human life; and

5 (5) That it is in the interest of the people of the
6 State of Nebraska to maintain accurate statistical data to aid in
7 providing proper maternal health regulations and education;—

8 (6) That the existing standard of care for preabortion
9 screening and counseling is not always adequate to protect the
10 health needs of women;

11 (7) That clarifying the minimum standard of care for
12 preabortion screening and counseling in statute is a practical
13 means of protecting the well-being of women and may better ensure
14 that abortion doctors are sufficiently aware of each patient's
15 risk profile so they may give each patient a well-informed medical
16 opinion regarding her unique case; and

17 (8) That providing right to redress against nonphysicians
18 who perform illegal abortions or encourage self-abortions is an
19 important means of protecting women's health.

20 Sec. 3. Section 28-326, Revised Statutes Supplement,
21 2009, is amended to read:

22 28-326 For purposes of sections 28-325 to 28-345 and
23 sections 5 to 11 of this act, unless the context otherwise
24 requires:

25 (1) Abortion means the use or prescription of any

1 instrument, medicine, drug, or other substance or device
2 intentionally to terminate the pregnancy of a woman known to be
3 pregnant with an intention other than to increase the probability
4 of a live birth, to preserve the life or health of the child after
5 live birth, or to remove a dead unborn child, and which causes the
6 premature termination of the pregnancy;

7 (2) Complications associated with abortion means any
8 adverse physical, psychological, or emotional reaction that is
9 reported in a peer-reviewed journal to be statistically associated
10 with abortion such that there is less than a five percent
11 probability (P < .05) that the result is due to chance;

12 (3) Conception means the fecundation of the ovum by the
13 spermatozoa;

14 (4) Emergency situation means that condition which, on
15 the basis of the physician's good faith clinical judgment, so
16 complicates the medical condition of a pregnant woman as to
17 necessitate the immediate abortion of her pregnancy to avert her
18 death or for which a delay will create serious risk of substantial
19 impairment of a major bodily function;

20 ~~(2)~~ (5) Hospital means those institutions licensed by the
21 Department of Health and Human Services pursuant to the Health Care
22 Facility Licensure Act;

23 (6) Negligible risk means a risk that a reasonable person
24 would consider to be immaterial to a decision to undergo an
25 elective medical procedure;

1 (7) Partial-birth abortion means an abortion procedure
2 in which the person performing the abortion partially delivers
3 vaginally a living unborn child before killing the unborn child and
4 completing the delivery. For purposes of this subdivision, the term
5 partially delivers vaginally a living unborn child before killing
6 the unborn child means deliberately and intentionally delivering
7 into the vagina a living unborn child, or a substantial portion
8 thereof, for the purpose of performing a procedure that the person
9 performing such procedure knows will kill the unborn child and does
10 kill the unborn child;

11 ~~(3)~~ (8) Physician means any person licensed to practice
12 medicine in this state as provided in the Uniform Credentialing
13 Act;

14 ~~(4)~~ (9) Pregnant means that condition of a woman who has
15 unborn human life within her as the result of conception;

16 ~~(5)~~ Conception means the fecundation of the ovum by the
17 spermatozoa;

18 (10) Probable gestational age of the unborn child means
19 what will with reasonable probability, in the judgment of the
20 physician, be the gestational age of the unborn child at the time
21 the abortion is planned to be performed;

22 (11) Risk factor associated with abortion means
23 any factor, including any physical, psychological, emotional,
24 demographic, or situational factor, for which there is a
25 statistical association with one or more complications associated

1 with abortion such that there is less than a five percent
2 probability (P < .05) that such statistical association is due to
3 chance. Such information on risk factors shall have been published
4 in any peer-reviewed journals indexed by the United States National
5 Library of Medicine's search services (PubMed or MEDLINE) or in any
6 journal included in the Thomson Reuters Scientific Master Journal
7 List not less than twelve months prior to the day preabortion
8 screening was provided;

9 (12) Self-induced abortion means any abortion or
10 menstrual extraction attempted or completed by a pregnant woman on
11 her own body;

12 (13) Ultrasound means the use of ultrasonic waves for
13 diagnostic or therapeutic purposes, specifically to monitor an
14 unborn child;

15 ~~(6)~~ (14) Viability means that stage of human development
16 when the unborn child is potentially able to live more than merely
17 momentarily outside the womb of the mother by natural or artificial
18 means; and

19 ~~(7)~~ Emergency situation means that condition which, on
20 the basis of the physician's good faith clinical judgment, so
21 complicates the medical condition of a pregnant woman as to
22 necessitate the immediate abortion of her pregnancy to avert her
23 death or for which a delay will create serious risk of substantial
24 impairment of a major bodily function;

25 ~~(8)~~ Probable gestational age of the unborn child means

1 what will with reasonable probability, in the judgment of the
2 physician, be the gestational age of the unborn child at the time
3 the abortion is planned to be performed;

4 ~~(9)~~ Partial-birth abortion means an abortion procedure
5 in which the person performing the abortion partially delivers
6 vaginally a living unborn child before killing the unborn child and
7 completing the delivery. For purposes of this subdivision, the term
8 partially delivers vaginally a living unborn child before killing
9 the unborn child means deliberately and intentionally delivering
10 into the vagina a living unborn child, or a substantial portion
11 thereof, for the purpose of performing a procedure that the person
12 performing such procedure knows will kill the unborn child and does
13 kill the unborn child;

14 ~~(10)~~ (15) Woman means any female human being whether or
15 not she has reached the age of majority, and

16 ~~(11)~~ Ultrasound means the use of ultrasonic waves for
17 diagnostic or therapeutic purposes, specifically to monitor an
18 unborn child.

19 Sec. 4. Section 28-327, Revised Statutes Supplement,
20 2009, is amended to read:

21 28-327 No abortion shall be performed except with the
22 voluntary and informed consent of the woman upon whom the abortion
23 is to be performed. Except in the case of an emergency situation,
24 consent to an abortion is voluntary and informed only if:

25 (1) The woman is told the following by the physician who

1 is to perform the abortion, by the referring physician, or by a
2 physician assistant or registered nurse licensed under the Uniform
3 Credentialing Act who is an agent of either physician, at least
4 twenty-four hours before the abortion:

5 (a) The particular medical risks associated with the
6 particular abortion procedure to be employed including, when
7 medically accurate, the risks of infection, hemorrhage, perforated
8 uterus, danger to subsequent pregnancies, and infertility;

9 (b) The probable gestational age of the unborn child at
10 the time the abortion is to be performed;

11 (c) The medical risks associated with carrying her child
12 to term; and

13 (d) That she cannot be forced or required by anyone to
14 have an abortion and is free to withhold or withdraw her consent
15 for an abortion.

16 The person providing the information specified in this
17 subdivision to the person upon whom the abortion is to be
18 performed shall be deemed qualified to so advise and provide
19 such information only if, at a minimum, he or she has had
20 training in each of the following subjects: Sexual and reproductive
21 health; abortion technology; contraceptive technology; short-term
22 counseling skills; community resources and referral; and informed
23 consent. The physician or the physician's agent may provide this
24 information by telephone without conducting a physical examination
25 or tests of the patient, in which case the information required

1 to be supplied may be based on facts supplied by the patient and
2 whatever other relevant information is reasonably available to the
3 physician or the physician's agent;

4 (2) The woman is informed by telephone or in person, by
5 the physician who is to perform the abortion, by the referring
6 physician, or by an agent of either physician, at least twenty-four
7 hours before the abortion:

8 (a) The name of the physician who will perform the
9 abortion;

10 (b) That medical assistance benefits may be available for
11 prenatal care, childbirth, and neonatal care;

12 (c) That the father is liable to assist in the support of
13 her child, even in instances in which the father has offered to pay
14 for the abortion;

15 (d) That she has the right to review the printed
16 materials described in section 28-327.01. The physician or his
17 or her agent shall orally inform the woman that the materials
18 have been provided by the Department of Health and Human Services
19 and that they describe the unborn child and list agencies which
20 offer alternatives to abortion. If the woman chooses to review the
21 materials, they shall either be given to her at least twenty-four
22 hours before the abortion or mailed to her at least seventy-two
23 hours before the abortion by certified mail, restricted delivery
24 to addressee, which means the postal employee can only deliver
25 the mail to the addressee. The physician and his or her agent

1 may disassociate themselves from the materials and may comment or
2 refrain from commenting on them as they choose; and

3 (e) That she has the right to request a comprehensive
4 list, compiled by the Department of Health and Human Services,
5 of health care providers, facilities, and clinics that offer to
6 have ultrasounds performed by a person at least as qualified
7 as a registered nurse licensed under the Uniform Credentialing
8 Act, including and specifying those that offer to perform
9 such ultrasounds free of charge. The list shall be arranged
10 geographically and shall include the name, address, hours of
11 operation, and telephone number of each entity. If requested by
12 the woman, the physician who is to perform the abortion, the
13 referring physician, or his or her agent shall provide such a list
14 as compiled by the department;

15 (3) If an ultrasound is used prior to the performance
16 of an abortion, the physician who is to perform the abortion,
17 the referring physician, or a physician assistant or registered
18 nurse licensed under the Uniform Credentialing Act who is an agent
19 of either physician, or any qualified agent of either physician,
20 shall:

21 (a) Perform an ultrasound of the woman's unborn child
22 of a quality consistent with standard medical practice in the
23 community at least one hour prior to the performance of the
24 abortion;

25 (b) Simultaneously display the ultrasound images so that

1 the woman may choose to view the ultrasound images or not view the
2 ultrasound images. The woman shall be informed that the ultrasound
3 images will be displayed so that she is able to view them. Nothing
4 in this subdivision shall be construed to require the woman to view
5 the displayed ultrasound images; and

6 (c) If the woman requests information about the displayed
7 ultrasound image, her questions shall be answered. If she requests
8 a detailed, simultaneous, medical description of the ultrasound
9 image, one shall be provided that includes the dimensions of the
10 unborn child, the presence of cardiac activity, if present and
11 viewable, and the presence of external members and internal organs,
12 if present and viewable;

13 (4) At least one hour prior to the performance of an
14 abortion, a physician, psychiatrist, psychologist, mental health
15 practitioner, physician assistant, registered nurse, or social
16 worker licensed under the Uniform Credentialing Act has:

17 (a) Evaluated the pregnant woman to identify if the
18 pregnant woman had the perception of feeling pressured or coerced
19 into seeking or consenting to an abortion;

20 (b) Evaluated the pregnant woman to identify the presence
21 of any risk factors associated with abortion;

22 (c) Informed the pregnant woman and the physician who
23 is to perform the abortion of the results of the evaluation in
24 writing. The written evaluation shall include, at a minimum, a
25 checklist identifying both the positive and negative results of the

1 evaluation for each risk factor associated with abortion and both
2 the licensed person's written certification and the woman's written
3 certification that the pregnant woman was informed of the risk
4 factors associated with abortion as discussed; and

5 (d) Retained a copy of the written evaluation results in
6 the pregnant woman's permanent record;

7 (5) If any risk factors associated with abortion were
8 identified, the pregnant woman was informed of the following in
9 such manner and detail that a reasonable person would consider
10 material to a decision of undergoing an elective medical procedure:

11 (a) Each complication associated with each identified
12 risk factor; and

13 (b) Any quantifiable risk rates whenever such relevant
14 data exists;

15 (6) The physician performing the abortion has formed a
16 reasonable medical judgment, documented in the permanent record,
17 that:

18 (a) The preponderance of statistically validated medical
19 studies demonstrates that the physical, psychological, and familial
20 risks associated with abortion for patients with risk factors
21 similar to the patient's risk factors are negligible risks;

22 (b) Continuance of the pregnancy would involve risk of
23 injury to the physical or mental health of the pregnant woman
24 greater than if the pregnancy were terminated by induced abortion;
25 or

1 (c) Continuance of the pregnancy would involve less risk
2 of injury to the physical or mental health of the pregnant woman
3 than if the pregnancy were terminated by an induced abortion;

4 ~~(4)~~ (7) The woman certifies in writing, prior to the
5 abortion, that:

6 (a) The information described in subdivisions (1) and
7 (2) (a), (b), and (c) of this section has been furnished her;

8 (b) She has been informed of her right to review the
9 information referred to in subdivision (2) (d) of this section; and

10 (c) The requirements of subdivision (3) of this section
11 have been performed if an ultrasound is performed prior to the
12 performance of the abortion; and

13 ~~(5)~~ (8) Prior to the performance of the abortion,
14 the physician who is to perform the abortion or his or her
15 agent receives a copy of the written certification prescribed by
16 subdivision ~~(4)~~ (7) of this section. The physician or his or her
17 agent shall retain a copy of the signed certification form in the
18 woman's medical record.

19 Sec. 5. Any waiver of the evaluations and notices
20 provided for in subdivision (4) of section 28-327 is void and
21 unenforceable.

22 Sec. 6. In addition to whatever remedies are available
23 under the common or statutory laws of this state, the intentional,
24 knowing, or negligent failure to comply with the requirements of
25 section 28-327 shall provide a basis for the following damages:

1 (1) The award of reasonable costs and attorney's fees;
2 and

3 (2) A recovery for the pregnant woman for the wrongful
4 death of her unborn child under section 30-809 upon proving by
5 a preponderance of evidence that the physician knew or should
6 have known that the pregnant woman's consent was either not fully
7 informed or not fully voluntary pursuant to section 28-327.

8 Sec. 7. Any action for civil remedies based on a
9 failure to comply with the requirements of section 28-327 shall be
10 commenced in accordance with section 25-222 or 44-2828.

11 Sec. 8. If a physician performed an abortion on a
12 pregnant woman who is a minor without providing the information
13 required in section 28-327 to the pregnant woman's parent or legal
14 guardian, then the physician bears the burden of proving that
15 the pregnant woman was capable of independently evaluating the
16 information given to her.

17 Sec. 9. Except in the case of an emergency situation,
18 if a pregnant woman is provided with the information required by
19 section 28-327 less than twenty-four hours before her scheduled
20 abortion, the physician shall bear the burden of proving that
21 the pregnant woman had sufficient reflection time, given her age,
22 maturity, emotional state, and mental capacity, to comprehend and
23 consider such information.

24 Sec. 10. In a civil action involving section 28-327, the
25 following shall apply:

1 (1) In determining the liability of the physician and the
2 validity of the consent of a pregnant woman, the failure to comply
3 with the requirements of section 28-327 shall create a rebuttable
4 presumption that the pregnant woman would not have undergone the
5 recommended abortion had section 28-327 been complied with by the
6 physician;

7 (2) The absence of physical injury shall not preclude
8 an award of noneconomic damages including pain, suffering,
9 inconvenience, mental suffering, emotional distress, psychological
10 trauma, loss of society or companionship, loss of consortium,
11 injury to reputation, or humiliation associated with the abortion;

12 (3) The fact that a physician does not perform elective
13 abortions or has not performed elective abortions in the past
14 shall not automatically disqualify such physician from being an
15 expert witness. A licensed obstetrician or family practitioner
16 who regularly assists pregnant women in resolving medical matters
17 related to pregnancy may be qualified to testify as an expert
18 on the screening, counseling, management, and treatment of
19 pregnancies;

20 (4) Any physician advertising services in this state
21 shall be deemed to be transacting business in this state pursuant
22 to section 25-536 and shall be subject to the provisions of section
23 28-327;

24 (5) It shall be an affirmative defense to an allegation
25 of inadequate disclosure under the requirements of section 28-327

1 that the defendant omitted the contested information because
2 statistically validated surveys of the general population of women
3 of reproductive age, conducted within the three years before or
4 after the contested abortion, demonstrate that less than five
5 percent of women would consider the contested information to be
6 relevant to an abortion decision; and

7 (6) In addition to the other remedies available under the
8 common or statutory law of this state, a woman or her survivors
9 shall have a cause of action for reckless endangerment against any
10 person, other than a physician or pharmacist licensed under the
11 Uniform Credentialing Act, who attempts or completes an abortion
12 on the pregnant woman or aids or abets the commission of a
13 self-induced abortion. Proof of injury shall not be required to
14 recover an award, including reasonable costs and attorney's fees,
15 for wrongful death under this subdivision.

16 Sec. 11. (1) In the event that any portion of section
17 28-327 is enjoined and subsequently upheld, the statute of
18 limitations for filing a civil suit under section 28-327 shall
19 be tolled during the period for which the injunction is pending and
20 for two years thereafter.

21 (2) Nothing in section 28-327 shall be construed as
22 defining a standard of care for any medical procedure other than an
23 induced abortion.

24 (3) A violation of subdivision (4), (5), or (6) of
25 section 28-327 shall not provide grounds for any criminal action or

1 disciplinary action against or revocation of a license to practice
2 medicine and surgery pursuant to the Uniform Credentialing Act.

3 Sec. 12. Section 28-327.01, Revised Statutes Supplement,
4 2009, is amended to read:

5 28-327.01 (1) The Department of Health and Human Services
6 shall cause to be published the following easily comprehensible
7 printed materials:

8 (a) Geographically indexed materials designed to inform
9 the woman of public and private agencies and services available to
10 assist a woman through pregnancy, upon childbirth, and while the
11 child is dependent, including adoption agencies and agencies and
12 services for prevention of unintended pregnancies, which materials
13 shall include a comprehensive list of the agencies available,
14 a description of the services they offer, and a description of
15 the manner, including telephone numbers and addresses in which
16 such agencies may be contacted or printed materials including a
17 toll-free, twenty-four-hour-a-day telephone number which may be
18 called to orally obtain such a list and description of agencies in
19 the locality of the caller and of the services they offer;

20 (b) Materials designed to inform the woman of the
21 probable anatomical and physiological characteristics of the unborn
22 child at two-week gestational increments from the time when a woman
23 can be known to be pregnant to full term, including pictures or
24 drawings representing the development of unborn children at the
25 two-week gestational increments, and any relevant information on

1 the possibility of the unborn child's survival. Any such pictures
2 or drawings shall contain the dimensions of the unborn child and
3 shall be realistic and appropriate for the stage of pregnancy
4 depicted. The materials shall be objective, nonjudgmental, and
5 designed to convey only accurate scientific information about
6 the unborn child at the various gestational ages. The materials
7 shall also contain objective information describing the methods of
8 abortion procedures commonly employed, the medical risks commonly
9 associated with each such procedure, the possible detrimental
10 psychological effects of abortion, the medical risks commonly
11 associated with abortion, and the medical risks commonly associated
12 with carrying a child to term; and

13 (c) A comprehensive list of health care providers,
14 facilities, and clinics that offer to have ultrasounds performed by
15 a person at least as qualified as a registered nurse licensed under
16 the Uniform Credentialing Act, including and specifying those that
17 offer to perform such ultrasounds free of charge. The list shall be
18 arranged geographically and shall include the name, address, hours
19 of operation, and telephone number of each entity.

20 (2) The printed materials shall be printed in a typeface
21 large enough to be clearly legible.

22 (3) The printed materials required under this section
23 shall be available from the department upon the request by any
24 person, facility, or hospital for an amount equal to the cost
25 incurred by the department to publish the materials.

1 (4) The Department of Health and Human Services shall
2 make available on its Internet web site a printable publication
3 of geographically indexed materials designed to inform the woman
4 of public and private agencies with services available to assist
5 a woman with mental health concerns, following a risk factor
6 evaluation. Such services shall include, but not be limited to,
7 outpatient and crisis intervention services and crisis hotlines.
8 The materials shall include a comprehensive list of the agencies
9 available, a description of the services offered, and a description
10 of the manner in which such agencies may be contacted, including
11 addresses and telephone numbers of such agencies, as well as a
12 toll-free, twenty-four-hour-a-day telephone number to be provided
13 by the department which may be called to orally obtain the names of
14 the agencies and the services they provide in the locality of the
15 woman. The department shall update the publication as necessary.

16 Sec. 13. Section 28-327.03, Revised Statutes Supplement,
17 2009, is amended to read:

18 28-327.03 No civil liability for failure to comply with
19 subdivision (2) (d) of section 28-327 or that portion of subdivision
20 ~~(4)~~ (7) of such section requiring a written certification that the
21 woman has been informed of her right to review the information
22 referred to in subdivision (2) (d) of such section may be imposed
23 unless the Department of Health and Human Services has published
24 and made available the printed materials at the time the physician
25 or his or her agent is required to inform the woman of her right

1 to review them.

2 Sec. 14. Section 28-327.04, Revised Statutes Supplement,
3 2009, is amended to read:

4 28-327.04 Any person upon whom an abortion has been
5 performed or attempted in violation of section 28-327 or the
6 parent or guardian of a minor upon whom an abortion has been
7 performed or attempted in violation of such section shall have a
8 right to maintain a civil cause of action against the person who
9 performed the abortion or attempted to perform the abortion. A
10 violation of ~~such section~~ subdivision (1), (2), (3), (7), or (8)
11 of section 28-327 shall be prima facie evidence of professional
12 negligence. The written ~~certification prescribed by subdivision~~
13 ~~(4)~~ certifications prescribed by subdivisions (4) and (7) of
14 section 28-327 signed by the person upon whom an abortion has been
15 performed or attempted shall constitute and create a rebuttable
16 presumption of full compliance with all provisions of section
17 28-327 in favor of the physician who performed or attempted to
18 perform the abortion, the referring physician, or the agent of
19 either physician. The written certification shall be admissible as
20 evidence in the cause of action for professional negligence or
21 in any criminal action. If judgment is rendered in favor of the
22 plaintiff in any such action, the court shall also render judgment
23 for a reasonable attorney's fee in favor of the plaintiff against
24 the defendant.

25 Sec. 15. Section 28-340, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 28-340 Any person whose employment or position has been
3 in any way altered, impaired, or terminated in violation of
4 sections 28-325 to 28-345 and sections 5 to 11 of this act may sue
5 in the district court for all consequential damages, lost wages,
6 reasonable attorney's fees incurred, and the cost of litigation.

7 Sec. 16. Section 38-2021, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 38-2021 Unprofessional conduct means any departure from
10 or failure to conform to the standards of acceptable and prevailing
11 practice of medicine and surgery or the ethics of the profession,
12 regardless of whether a person, patient, or entity is injured, or
13 conduct that is likely to deceive or defraud the public or is
14 detrimental to the public interest, including, but not limited to:

15 (1) Performance by a physician of an abortion as defined
16 in subdivision (1) of section 28-326 under circumstances when he
17 or she will not be available for a period of at least forty-eight
18 hours for postoperative care unless such postoperative care is
19 delegated to and accepted by another physician;

20 (2) Performing an abortion upon a minor without having
21 satisfied the notice requirements of sections 71-6901 to 71-6908;
22 and

23 (3) The intentional and knowing performance of a
24 partial-birth abortion as defined in subdivision ~~(9)~~ (7) of section
25 28-326, unless such procedure is necessary to save the life of the

1 mother whose life is endangered by a physical disorder, physical
2 illness, or physical injury, including a life-endangering physical
3 condition caused by or arising from the pregnancy itself.

4 Sec. 17. If any section in this act or any part of any
5 section is declared invalid or unconstitutional, the declaration
6 shall not affect the validity or constitutionality of the remaining
7 portions.

8 Sec. 18. Original sections 28-325, 28-340, and 38-2021,
9 Reissue Revised Statutes of Nebraska, and sections 28-101, 28-326,
10 28-327, 28-327.01, 28-327.03, and 28-327.04, Revised Statutes
11 Supplement, 2009, are repealed.