

Title 15: Mississippi State Department of Health

Part 16: Health Facilities

Subpart 1: Health Facilities Licensure and Certification

CHAPTER 44 MINIMUM STANDARDS OF OPERATION FOR ABORTION FACILITIES

Subchapter 1 INTRODUCTION

Rule 44.1.5 **DEFINITIONS** A list of selected terms often used in connection with these rules, regulations, and standards follows:

7. **Dismemberment Abortion.** The term dismemberment abortion means, with the purpose of causing the death of an unborn child, purposely to dismember a living unborn child and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush and/or grasp a portion of the unborn child's body to cut or rip it off. The term dismemberment abortion does not include an abortion that uses suction to dismember the body of the unborn child by sucking fetal parts into a collection chamber, although it does include an abortion in which a dismemberment abortion is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.
8. **Governing Authority.** The term "governing authority" shall mean owner(s) associations, public bodies, board of trustees, or any other comparable designation of an individual or group of individuals who have the purpose of owning, acquiring, constructing, equipping, operating and/or maintaining abortion facilities and exercising control over the affairs, and in which the ultimate responsibility and authority of the facility is vested.
9. **Level I.** In accordance with Section 41-75-1, Mississippi Code of 1972, effective August 15, 2005, a Level I abortion facility shall be required to meet minimum standards for Level II abortion facilities and Minimum Standards of Operation For Ambulatory Surgical Facilities as established by the licensing agency.
10. **Level II.** In accordance with Section 41-75-1, Mississippi Code of 1972, effective August 15, 2005, a Level II abortion facility shall be required to meet the minimum standards for Level II abortion facilities as established by the licensing agency.
11. **Licensed Practical Nurse.** "Licensed practical nurse" (LPN) means any person licensed as such by the Mississippi State Board of Nursing.

12. **License.** The term "license" shall mean the document issued by the Mississippi Department of Health and signed by the Executive Director of the Mississippi Department of Health.
13. **Licensure** shall constitute authority to receive patients and perform the services included within the scope of these rules, regulations, and minimum standards.
14. **Licensee.** The term "licensee" shall mean the individual to whom the license is issued and upon whom rests the responsibility for the operation of the abortion facility in compliance with these rules, regulations and minimum standards.
15. **Licensing Agency.** The term "licensing agency" shall mean the Mississippi Department of Health.
16. **Medical Treatment.** Means, but is not limited to, hospitalization, laboratory tests, surgery, or prescription of drugs.
17. **Nursing Personnel.** The term "nursing personnel" shall mean registered nurses, graduate nurses, licensed practical nurses, nurses' aides, orderlies, attendants and others rendering patient care.
18. **Operating.** "Operating" an abortion facility means that the facility is open for any period of time during a day and has on site at the facility or on call, a physician licensed to practice in the State of Mississippi available to provide abortions.
19. **Patient.** The term "patient" shall mean a person admitted to the abortion facility by and upon the recommendation of a physician and who is to receive medical care recommended by the physician.
20. **Performance By Physician Required.** No termination of pregnancy shall be performed at any time except by a physician.
21. **Person.** The term "person" means any individual, firm, partnership, corporation, company, association, or joint stock association, or any licensee herein or the legal successor thereof.
22. **Pharmacy.** The term "pharmacy" shall mean a place licensed by the Mississippi Board of Pharmacy where prescriptions, drugs, medicines and chemicals are offered for sale, compounded or dispensed, and shall include all places whose titles may imply the sale, offering for sale, compounding or dispensing of prescriptions, drugs, medicines or chemicals.
23. **Pharmacist.** The term "pharmacist" shall mean a person currently licensed by the Mississippi Board of Pharmacy to practice pharmacy in Mississippi under the provisions contained in current state statutes.

24. **Physician.** The term physician shall mean a person fully licensed by the Mississippi State Board of Medical Licensure to practice medicine and surgery in Mississippi under provisions contained in current state statutes, including but not limited to, Miss. Code Ann. §41-75-1:
- a. He or she must have completed a residency in family medicine, with strong rotation through OB/GYN, in a residency program approved by the accreditation counsel for graduate medical education.
 - b. He or she must have completed a residency in obstetrics and gynecology in a residency program approved by the accreditation counsel for graduate medical education.
 - c. He or she must have an M.D. or O.D. degree and at least one year of postgraduate training in a training facility with an approved residency program and an additional year of obstetrics/gynecology residency.
25. **Purposely.** The term “purposely” means that a person acts purposely with respect to a material element of an offense when:
- a. If the element involves the nature of his conduct or a result there of, it is his conscious object to engage in conduct of that nature or to cause such a result; and
 - b. If the element involves the attendant circumstances, he is aware of the existence of those circumstances or he believes or hopes that they exist.
26. **Registered Nurse.** The term "registered nurse" (R.N.) shall mean a professional registered nurse currently licensed by the Mississippi Board of Nursing in accordance with the provisions contained in current state statutes.
27. **May.** The term "may" indicates permission.
28. **Serious health risk to the unborn child’s mother.** This term means that in reasonable medical judgment, she has a condition that so complicates her medical condition that it necessitates 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. No such condition may be determined to exist if it is based on a claim or diagnosis that the women will engage in conduct that she intends to result in her death or in substantial or irreversible physical impairment of a major bodily function.
29. **Shall.** The term "shall" indicates mandatory requirement(s).
30. **Should.** The term "should" indicates recommendation(s).

31. **Termination of Pregnancy.** Abortion procedures after the first trimester shall only be performed at a Level I abortion facility or an ambulatory surgical facility or hospital licensed to perform that service.

SOURCE: Miss. Code Ann. §41-75-13

Subchapter 7 PROCEDURES REQUIRED

- Rule 44.7.2 **Procedures Prohibited.** It shall be unlawful for any person to purposely perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

SOURCE: Miss. Code Ann. §41-75-13

Subchapter 31 GENERAL

- Rule 44.31.1 **Location.** The abortion facility shall be located in an attractive setting with sufficient parking space provided, with provisions for meeting the needs of the individuals with disabilities. The facility shall be located within 30 minutes travel time from a hospital which has an emergency room and shall not be located within one thousand five hundred (1,500) feet from the property on which any church, school or kindergarten is located. Site approval by the licensing agency must be secured before construction begins.

SOURCE: Miss. Code Ann. §41-75-13

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a dismemberment abortion is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.

8. ~~7.~~ **Governing Authority.** The term "governing authority" shall mean owner(s) associations, public bodies, board of trustees, or any other comparable designation of an individual or group of individuals who have the purpose of owning, acquiring, constructing, equipping, operating and/or maintaining abortion facilities and exercising control over the affairs, and in which the ultimate responsibility and authority of the facility is vested.
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12. ~~11.~~ **License.** The term "license" shall mean the document issued by the Mississippi Department of Health and signed by the Executive Director of the Mississippi Department of Health.
13. ~~12.~~ **Licensure** shall constitute authority to receive patients and perform the services included within the scope of these rules, regulations, and minimum standards.
14. ~~13.~~ **Licensee.** The term "licensee" shall mean the individual to whom the license is issued and upon whom rests the responsibility for the operation of the abortion facility in compliance with these rules, regulations and minimum standards.
15. ~~14.~~ **Licensing Agency.** The term "licensing agency" shall mean the Mississippi Department of Health.
16. ~~15.~~ **Medical Treatment.** Means, but is not limited to, hospitalization, laboratory tests, surgery, or prescription of drugs.
17. ~~16.~~ **Nursing Personnel.** The term "nursing personnel" shall mean registered nurses, graduate nurses, licensed practical nurses, nurses' aides, orderlies, attendants and others rendering patient care.
18. ~~17.~~ **Operating.** "Operating" an abortion facility means that the facility is open for any period of time during a day and has on site at the facility or on call, a

physician licensed to practice in the State of Mississippi available to provide abortions.

19. ~~18.~~ **Patient.** The term "patient" shall mean a person admitted to the abortion facility by and upon the recommendation of a physician and who is to receive medical care recommended by the physician.
20. ~~19.~~ **Performance By Physician Required.** No termination of pregnancy shall be performed at any time except by a physician.
21. ~~20.~~ **Person.** The term "person" means any individual, firm, partnership, corporation, company, association, or joint stock association, or any licensee herein or the legal successor thereof.
22. ~~21.~~ **Pharmacy.** The term "pharmacy" shall mean a place licensed by the Mississippi Board of Pharmacy where prescriptions, drugs, medicines and chemicals are offered for sale, compounded or dispensed, and shall include all places whose titles may imply the sale, offering for sale, compounding or dispensing of prescriptions, drugs, medicines or chemicals.
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 - b. He or she must have completed a residency in obstetrics and gynecology in a residency program approved by the accreditation counsel for graduate medical education.
 - c. He or she must have an M.D. or O.D. degree and at least one year of postgraduate training in a training facility with an approved residency program and an additional year of obstetrics/gynecology residency.
25. **Purposely.** The term "purposely" means that a person acts purposely with respect to a material element of an offense when:
 - a. If the element involves the nature of his conduct or a result there of, it is his conscious object to engage in conduct of that nature or to cause such a result;
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26. ~~23.~~ **Registered Nurse.** The term "registered nurse" (R.N.) shall mean a professional registered nurse currently licensed by the Mississippi Board of Nursing in accordance with the provisions contained in current state statutes.
24. **Person.** (Definition moved to 21.)
27. ~~25.~~ **May.** The term "may" indicates permission.
28. **Serious health risk to the unborn child's mother.** This term means that in reasonable medical judgment, she has a condition that so complicates her medical condition that it necessitates 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. No such condition may be determined to exist if it is based on a claim or diagnosis that the women will engage in conduct that she intends to result in her death or in substantial or irreversible physical impairment of a major bodily function.
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SOURCE: Miss. Code Ann. §41-75-13

Subchapter 8 PROCEDURES REQUIRED

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Rule 44.31.1 **Location.** The abortion facility shall be located in an attractive setting with sufficient parking space provided, with provisions for meeting the needs of the individuals with disabilities. ~~Also, ¶~~ The facility shall be located within 30 minutes travel time from a hospital which has an emergency room and shall not be located within one thousand five hundred (1,500) feet from the property on which any church, school or kindergarten is located. Site approval by the licensing agency must be secured before construction begins.

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