

July 6, 2011

Dear Current and Prospective Abortion Clinic Licensees,

Effective July 20, 2011, there are several definition changes to the Arizona Revised Statute (A.R.S.) 36-449.01 Definitions 1, 2, and 4 that may affect your current license or cause you to be licensed as an "abortion clinic" using the new definition of "abortion."

1. "Abortion" means the use of **ANY MEANS** with the intent to terminate a woman's pregnancy for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Abortion does not include birth control devices or oral contraceptives.
2. "Abortion clinic" means a facility, other than a hospital, in which five or more first trimester abortions in any month or any second or third trimester abortions are performed.
4. "PERFORM" INCLUDES THE INITIAL ADMINISTRATION OF ANY MEDICATION, DRUG, OR OTHER SUBSTANCES INTENDED TO CAUSE OR INDUCE AN ABORTION

The Department recommends that current or prospective licensees read Arizona Revised Statutes Title 36, Chapter 4, Article 10 Abortion Clinics found on www.azleg.state.az.us and the **unofficial** copy of the licensing rules for abortion clinics and unofficial copy of the amended licensing rules for outpatient treatment centers, hospitals and outpatient surgery centers effective November 1, 2010 and found on the Bureau of Medical Facilities Licensing webpage (www.azdhs.gov/als/medical). This unofficial copy is being provided for your convenience. Before relying on any of the rules in this unofficial copy, you should consult the official version published in the Arizona Administrative Register.

Private offices and clinics of health care providers licensed under title 32 who meet the definition of an "abortion clinic" using the new definition of "abortion" must submit an initial license application 60 to 120 days prior to anticipated date of operations to the Arizona Department of Health Services (Department), Division of Licensing Services, Bureau of Medical Facilities Licensing (Bureau). You can find the initial license application and fees on the Department's website (www.azdhs.gov/als/medical)

Licensed health care institutions such as an outpatient treatment center, hospital or outpatient surgery center that meets the definition of "abortion clinic" in A.R.S. § 36-449.01 using the new definition of "abortion" are responsible to ensure that abortions and related services are provided in compliance with the requirements in A.A.C. R9-10-Article 15 (Abortion Clinics) in addition to their specific licensing rules.

Technical assistance is available to assist current licensees with the licensing and compliance processes so you will be in compliance with the requirements for licensing before the effective date of July 20, 2011.

For new licensees, please contact the Bureau at 602-364-3030 and arrange for technical assistance and a courtesy compliance inspection.

It is important to understand the necessity to comply with these new statutory changes. A.R.S. 36-430 states “The operation or maintenance of a health care institution which does not hold a current and valid license or which exceeds the range of services authorized by the class or subclass for which it is licensed is a violation of this chapter and is declared a nuisance inimical to the public health and safety. The director, in the name of the people of the state, through the attorney general, may bring action for an injunction to restrain such violation or to enjoin the future operations or maintenance of any such health care institution until substantial compliance with the provisions of this chapter and rules and regulations and standard adopted pursuant thereto is obtained.”

For licensing purposes, the Department uses the Statutes and Rules referenced above only. As general information, be sure you are aware of the additional statutes regarding Abortion found in A.R.S. 36-Chapter 20.

If you have any questions or concerns, please contact the Bureau at 602-364-3030

Sincerely,

Kathy McCanna, RN, BSN, CPHQ
Bureau Chief
Bureau of Medical Facility Licensing