



Arkansas Department of Health

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PUBLIC COMMENT REPORT

Proposed Rules for Abortion Facilities in Arkansas

Public comment period expired after the March 17, 2022, Public hearing

Commenter: Chelsea Tejada, Staff Attorney, on behalf of the ACLU Foundation

Gary Sullivan, ACLU of Arkansas Foundation. Letter received March 16, 2022

COMMENT #1: (I a) Section 6.M.31 purports to require abortion facilities to create and put in place policies related to the reporting of crimes to law enforcement beyond what is required in Act 787 of 2021 and exceeds the agency's rulemaking authority.

COMMENT #2: (I b) Section 6, subsection N.6 purports to require abortion facilities to create and put in place policies related to the reporting of crimes to law enforcement beyond what is required in Act 787 of 2021 and exceeds the agency's rulemaking authority.

COMMENT #3: (I c) Section 9.B.12. purports to require abortion facilities to create and put in place policies related to the reporting of crimes to law enforcement beyond what is required in Act 787 of 2021 and exceeds the agency's rulemaking authority.

COMMENT #4: (II) Under subsection H. 5.f, the language states that literature is provided to patient upon discharge. Pursuant to Ark. Code Ann. § 20-16-1703(b)(2)(F), Act 740 of 2021, the human trafficking literature is provided seventy-two hours prior to abortion. Suggest move up to subsection H.1.

COMMENT #5: (III) Subsection 7.L.3. To accurately incorporate the exception permitted under Act 346 of 2021, the rules language should be changed.

COMMENT #6: (IV) Section 9.B.3 implements Act 498 of 2021, but requires abortion facilities to create and put in place policies related to the documentation regarding the viewing of the ultrasound.

AGENCY RESPONSE:

The Rules will require extensive revisions due to the United States Supreme Court opinion in Dobbs, State Health Officer of the Mississippi Department of Health v. Jackson Women's Health Organization, 597 U.S. ___ (2022), overruling Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833 (1992). The Department is currently reviewing the Rules to determine the extent that reporting and licensing requirements are required by state law.