

AMENDMENTS TO LB209

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 28-327, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-327 No abortion shall be performed except with the voluntary and
6 informed consent of the woman upon whom the abortion is to be performed.
7 Except in the case of an emergency situation, consent to an abortion is
8 voluntary and informed only if:

9 (1) The woman is told the following by the physician who is to
10 perform the abortion, by the referring physician, or by a physician
11 assistant or registered nurse licensed under the Uniform Credentialing
12 Act who is an agent of either physician, at least twenty-four hours
13 before the abortion:

14 (a) The particular medical risks associated with the particular
15 abortion procedure to be employed including, when medically accurate, the
16 risks of infection, hemorrhage, perforated uterus, danger to subsequent
17 pregnancies, and infertility;

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

20 (c) The medical risks associated with carrying her child to term;
21 ~~and~~

22 (d) That she cannot be forced or required by anyone to have an
23 abortion and is free to withhold or withdraw her consent for an abortion;
24 and -

25 (e) Research indicates that mifepristone alone is not always
26 effective in ending a pregnancy. You may still have a viable pregnancy
27 after taking mifepristone. If you change your mind and want to continue

1 your pregnancy after taking mifepristone, information on finding
2 immediate medical assistance is available on the web site of the
3 Department of Health and Human Services.

4 The person providing the information specified in this subdivision
5 to the person upon whom the abortion is to be performed shall be deemed
6 qualified to so advise and provide such information only if, at a
7 minimum, he or she has had training in each of the following subjects:
8 Sexual and reproductive health; abortion technology; contraceptive
9 technology; short-term counseling skills; community resources and
10 referral; and informed consent. The physician or the physician's agent
11 may provide this information by telephone without conducting a physical
12 examination or tests of the patient, in which case the information
13 required to be supplied may be based on facts supplied by the patient and
14 whatever other relevant information is reasonably available to the
15 physician or the physician's agent;

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

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

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

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

26 (d) That she has the right to review the printed materials described
27 in section 28-327.01. The physician or his or her agent shall orally
28 inform the woman that the materials have been provided by the Department
29 of Health and Human Services and that they describe the unborn child, ~~and~~
30 list agencies which offer alternatives to abortion, and include
31 information on finding immediate medical assistance if she changes her

1 mind after taking mifepristone and wants to continue her pregnancy. If
2 the woman chooses to review the materials, they shall either be given to
3 her at least twenty-four hours before the abortion or mailed to her at
4 least seventy-two hours before the abortion by certified mail, restricted
5 delivery to addressee, which means the postal employee can only deliver
6 the mail to the addressee. The physician and his or her agent may
7 disassociate themselves from the materials and may comment or refrain
8 from commenting on them as they choose; and

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

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

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

27 (b) Simultaneously display the ultrasound images so that the woman
28 may choose to view the ultrasound images or not view the ultrasound
29 images. The woman shall be informed that the ultrasound images will be
30 displayed so that she is able to view them. Nothing in this subdivision
31 shall be construed to require the woman to view the displayed ultrasound

1 images; and

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

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

12 (a) Evaluated the pregnant woman to identify if the pregnant woman
13 had the perception of feeling pressured or coerced into seeking or
14 consenting to an abortion;

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

17 (c) Informed the pregnant woman and the physician who is to perform
18 the abortion of the results of the evaluation in writing. The written
19 evaluation shall include, at a minimum, a checklist identifying both the
20 positive and negative results of the evaluation for each risk factor
21 associated with abortion and both the licensed person's written
22 certification and the woman's written certification that the pregnant
23 woman was informed of the risk factors associated with abortion as
24 discussed; and

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

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

31 (a) Each complication associated with each identified risk factor;

1 and

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

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

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

9 (b) Continuance of the pregnancy would involve risk of injury to the
10 physical or mental health of the pregnant woman greater than if the
11 pregnancy were terminated by induced abortion; or

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

15 (7) The woman certifies in writing, prior to the abortion, that:

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

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

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

23 (8) Prior to the performance of the abortion, the physician who is
24 to perform the abortion or his or her agent receives a copy of the
25 written certification prescribed by subdivision (7) of this section. The
26 physician or his or her agent shall retain a copy of the signed
27 certification form in the woman's medical record.

28 Sec. 2. Section 28-327.01, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 28-327.01 (1) The Department of Health and Human Services shall
31 cause to be published the following easily comprehensible printed

1 materials:

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

13 (b) Materials designed to inform the woman of the probable
14 anatomical and physiological characteristics of the unborn child at two-
15 week gestational increments from the time when a woman can be known to be
16 pregnant to full term, including pictures or drawings representing the
17 development of unborn children at the two-week gestational increments,
18 and any relevant information on the possibility of the unborn child's
19 survival. Any such pictures or drawings shall contain the dimensions of
20 the unborn child and shall be realistic and appropriate for the stage of
21 pregnancy depicted. The materials shall be objective, nonjudgmental, and
22 designed to convey only accurate scientific information about the unborn
23 child at the various gestational ages. The materials shall also contain
24 objective information describing the methods of abortion procedures
25 commonly employed, the medical risks commonly associated with each such
26 procedure, the possible detrimental psychological effects of abortion,
27 the medical risks commonly associated with abortion, and the medical
28 risks commonly associated with carrying a child to term;~~and~~

29 (c) A comprehensive list of health care providers, facilities, and
30 clinics that offer to have ultrasounds performed by a person at least as
31 qualified as a registered nurse licensed under the Uniform Credentialing

1 Act, including and specifying those that offer to perform such
2 ultrasounds free of charge. The list shall be arranged geographically and
3 shall include the name, address, hours of operation, and telephone number
4 of each entity; -

5 (d) Materials designed to inform the woman that she may still have a
6 viable pregnancy after taking mifepristone. The materials shall include
7 the following statements: "Research indicates that mifepristone alone is
8 not always effective in ending a pregnancy. You may still have a viable
9 pregnancy after taking mifepristone. If you change your mind and want to
10 continue your pregnancy after taking mifepristone, it may not be too
11 late."; and

12 (e) Materials, including contact information, that will assist the
13 woman in finding a medical professional who can help her continue her
14 pregnancy after taking mifepristone.

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

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

21 (4) The Department of Health and Human Services shall make available
22 on its Internet web site a printable publication of geographically
23 indexed materials designed to inform the woman of public and private
24 agencies with services available to assist a woman with mental health
25 concerns, following a risk factor evaluation. Such services shall
26 include, but not be limited to, outpatient and crisis intervention
27 services and crisis hotlines. The materials shall include a comprehensive
28 list of the agencies available, a description of the services offered,
29 and a description of the manner in which such agencies may be contacted,
30 including addresses and telephone numbers of such agencies, as well as a
31 toll-free, twenty-four-hour-a-day telephone number to be provided by the

1 department which may be called to orally obtain the names of the agencies
2 and the services they provide in the locality of the woman. The
3 department shall update the publication as necessary.

4 (5) The Department of Health and Human Services shall publish and
5 make available on its web site materials designed to inform the woman
6 that she may still have a viable pregnancy after taking mifepristone. The
7 materials shall include the following statements: "Research indicates
8 that mifepristone alone is not always effective in ending a pregnancy.
9 You may still have a viable pregnancy after taking mifepristone. If you
10 change your mind and want to continue your pregnancy after taking
11 mifepristone, it may not be too late." The materials shall also include
12 information, including contact information, that will assist the woman in
13 finding a medical professional who can help her continue her pregnancy
14 after taking mifepristone.

15 (6) The Department of Health and Human Services shall review and
16 update, as necessary, the materials, including contact information,
17 regarding medical professionals who can help a woman continue her
18 pregnancy after taking mifepristone.

19 Sec. 3. Original sections 28-327 and 28-327.01, Reissue Revised
20 Statutes of Nebraska, are repealed.