

2022 Regulatory Actions

Abortion Clinics

Prepared by the Agency for Health Care Administration
pursuant to section 390.012(8), Florida Statutes



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Executive Summary

The Agency for Health Care Administration (Agency) is the chief health policy and planning entity for Florida¹. Its responsibilities include, in part; health facility licensure, inspection, and regulatory enforcement including investigation of consumer complaints related to health care facilities and managed care plans.

Section 390.012(8), Florida Statutes (F.S.), directs the Agency to submit a report to the President of the Senate and the Speaker of the House of Representatives summarizing all regulatory actions taken by the Agency during the prior year on abortion clinics. Actions include licensure application reviews, inspections, collection of Induced Termination of Pregnancy (ITOP) reports, and administrative actions.

From January 1, 2022, through December 31, 2022, the Agency:

- Received 50 licensure applications;
- Conducted 151 on-site inspections;
- Received 100% of the required ITOP reports from licensed abortion clinics;
- Initiated 12 administrative actions.

¹ S. 20.42, F.S.

Background

In Florida, an abortion may only be performed by a physician in a licensed abortion clinic, licensed hospital, or in a physician's office². All abortions, regardless of facility or procedure type, shall be reported to the Agency³. The Agency is responsible for the regulatory oversight of abortion clinics and hospitals.

The Agency issues an abortion clinic license to applicants meeting the minimum requirements found in Chapter 390, F.S and Rule 59A-9, Florida Administrative Code (F.A.C.). Abortion clinics are authorized to perform procedures within the first trimester only, unless the additional licensure requirements for second trimester procedures are met. Third trimester abortions may only be performed in a hospital and only if specific conditions are met.

There were 52 abortion clinics licensed to perform procedures located in 16 counties as of December 31, 2022. Of these, 42 clinics were licensed to perform both first and second trimester abortions.

Table 1 Licensed Abortion Clinics by Population⁴ as of December 31, 2022

County	County Population	City	City Population	1st Trimester Only	1st & 2nd Trimester
MIAMI-DADE	2,757,592	MIAMI	459,224	2	6
		HIALEAH	228,206	1	4
BROWARD	1,969,099	FORT LAUDERDALE	189,019	1	1
		PEMBROKE PINES	171,309	1	-
		HOLLYWOOD	154,909	-	1
		MIRAMAR	138,237	-	1
		PLANTATION	94,048	1	-
		TAMARAC	72,740	-	1
		HILLSBOROUGH	1,520,529	TAMPA	401,512
PALM BEACH	1,518,152	WEST PALM BEACH	119,971	-	2
		BOCA RATON	99,542	1	-
ORANGE	1,481,321	ORLANDO	321,904	-	2
PINELLAS	972,852	ST PETERSBURG	264,220	-	3
		CLEARWATER	119,208	-	2
DUVAL	1,033,533	JACKSONVILLE	987,247	-	3
LEE	802,178	FORT MYERS	96,755	-	1
POLK	770,019	LAKELAND	120,279	-	1
SEMINOLE	484,054	ALTAMONTE SPRINGS	47,413	-	1
SARASOTA	452,378	SARASOTA	56,494	1	1
COLLIER	390,912	NAPLES	19,283	-	1
OSCEOLA	424,946	KISSIMMEE	82,168	-	1
ST. LUCIE	350,518	PORT SAINT LUCIE	224,916	1	-
		FORT PIERCE	47,841	-	1
LEON	299,130	TALLAHASSEE	200,289	1	1
ALACHUA	287,872	GAINESVILLE	145,879	-	2
Totals				10	42

² S. 797.03, F.S.

³ S. 390.0112, F.S.

⁴ Office of Economic and Demographic Research, "Florida Population Estimates for Counties and Municipalities: April 1, 2022, last revised December 29, 2022, last accessed January 2, 2023.

License Activity

Applications

During the 2022 calendar year, the Agency received 50 abortion clinic applications. Twenty-six applications were to renew existing licenses and 24 applications to change existing licenses. There were no initial licensure and no change of ownership (CHOW) applications. The change applications included, 19 personnel changes, 1 change of management company, 1 request for a duplicate license, and 3 changes to terminate their licensure.

Table 2 Abortion Clinic Applications Received During the 2022 Calendar Year

Application Type	Completed	Pending	Withdrawn	Totals
Initial	0	0	0	0
Renewal	25	1	0	26
Change	23	0	1	24
CHOW	0	0	0	0
Totals	48	1	1	50

Inspections

The Agency conducts an inspection for compliance with Chapter 390, F.S., and Rule 59A-9, F.A.C., prior to initial licensure and annually thereafter. The Agency also investigates complaints against abortion clinics and allegations of unlicensed activity.

The Agency conducted 113 licensure and 38 complaint inspections at licensed abortion clinics during calendar year 2022 requiring 151 total onsite visits. Deficient practice was identified during 5 of the licensure inspections and 22 complaint investigations. Refer to Table 3 for a list and frequency of the deficiencies identified during the year.

Upon notification of a deficiency, clinics are provided 10 calendar days to submit an acceptable plan of correction. The Agency reviews each plan to determine if the deficiencies are corrected.

Table 3 Deficient Practice Cited During the 2022 Calendar Year

Citation ID	Regulatory Reference	Description	Times Cited
A0153	59A-9.0225(4), FAC	Failed to discard expired emergency medications	1
A0154	59A-9.0225(5), FAC	Failed to discard expired sterile supplies; Failed to ensure complete disinfectant logs	2
AO201	390.0111(2) FS; 59A-9.023(1-3), FAC	Failed to transfer patients in accordance with clinic policies	1
A0202	59A-9.023(4-5), FAC	Failed to train physicians in clinic policies; Failed to separate food items from biohazard storage	2
A0250	59A-9.024, FAC	Failed to properly label and store medications	1
A0300	59A-9.025(1), FAC	Failed to complete a history and physical	1
A0302	59A-9.025(3), FAC	Failed to discard expired supplies	1
A0350	59A-9.026, FAC	Failed to perform surgical procedures in accordance with obstetrical standards	1
A0362	390.0111(3)(a), FS	Failed to ensure the patient was informed of the nature and risks of the procedure at least 24 hours in advance	15
A0390	390.01114(5)	Failed to document parental consent for a minor	1
A0400	59A-9.027, FAC	Failed to ensure appropriate discharge orders; Failed to have staff trained in the management of recovery care	2

Table 3 Deficient Practice Cited During the 2022 Calendar Year - continued

Citation ID	Regulatory Reference	Description	Times Cited
A0450	59A-9.028, FAC	Failed to provide post procedure follow up care	1
A0500	59A-9.029, FAC	Failed to submit incident reports to the Agency within 10 days	1
A0600	59A-9.031(1), FAC	Failed to maintain complete clinical records	2
A0650	390.0112(1,3-4) FS; 59A-9.034, FAC	Failed to report all procedures to the Agency	1
CZ824	408.811 FS; 59A-35.120 FAC	Failed to ensure an authorized individual to give access to clinical records was available at the time of the survey	1
CZ827	408.812 FS; 408.8065(3) FS	1st trimester only clinic performed procedures after the 1st trimester	2

Required Reporting

Induced Termination of Pregnancy (ITOP)

All licensed abortion clinics must file a report each month summarizing the number of and reason for abortions performed during the preceding month. Hospitals and physicians must also report any abortions performed in their medical facilities and offices. The Agency posts year-to-date data, including previous calendar years on the Agency's website. The reports may be viewed at:

http://ahca.myflorida.com/MCHQ/Central_Services/Training_Support/Reports.shtml.

Incident Reports

Abortion clinics licensed to perform second trimester abortions must record any incident resulting in serious injury to a patient or viable fetus. The incident must be reported to the Agency within 10 days of its occurrence through a secure online portal. A serious injury is defined as one that creates a serious risk of substantial impairment of a major bodily organ. An abortion clinic must also report a patient's death to the Department of Health not later than the next workday. No deaths were reported during calendar year 2022. A summary of the incident reports include:

- Number of clinics reporting an incident: 8
- Number of reports received: 16
- Number of injuries reported: 17
 - Hemorrhage/excessive bleeding: 11
 - Perforation of the uterus: 3
 - Cervical injury: 2
 - Damage to other organs: 1

Note: multiple injuries may be reported for a single incident, such as hemorrhage/excessive bleeding and damage to other organs. Four incidents required hospitalization. One of which resulted in an Emergency Suspension Order. See Administrative Actions below.

Administrative Actions

The Agency may fine an abortion clinic up to \$1,000 for each violation of chapters 390 or 408, Part II, F.S., or applicable rules, except failing to timely file a monthly ITOP report will result in a \$200 fine. The Agency considers several factors prior to levying a fine, including:

- Severity of the violation (actual or potential harm to a patient);
- Actions taken by the clinic to correct the situation;
- The clinic's history of the same or similar violation;
- The Agency's history of fine amounts for the same or similar violation.

Thirty-one administrative actions were initiated during calendar year 2022.

- 17 administrative complaints based on inspection reports, including:
 - 15 involving noncompliance with section 390.0111(3)(a), F.S. regarding the 24-hour wait period required for a valid informed consent, which became enforceable in April 2022. See Citation Id A0362, Table 3 above.
 - 1 involving noncompliance with 9 citations (A0201, A0202, A0300, A0350, A0400, A0450, A0500, A0600, A0650) in addition to A0362, resulting in an Emergency Suspension Order and immediate suspension of services.
 - 1 involving a clinic licensed for first trimester procedures only providing services during the 12th week of pregnancy.
- 14 fines due to late ITOP submissions.