

Testimony
Presentation of Section 15 of 2011 House Bill 1297
Health Services Committee
Wednesday, October 26, 2011: 3:30 p.m.
North Dakota Department of Health

Good afternoon, Madam Chair and members of the Health Services Committee. My name is Kim Mertz and I am the Director of the Division of Family Health for the North Dakota Department of Health. I am here today to provide a presentation regarding the department's inventory of material relating to abortions and outlining the department's practice of gathering the inventory items pursuant to Section 15 of 2011 House Bill 1297. For this first part of my presentation, I will be focusing on Section 14-02.1-02.1., printed information of the Abortion Control Act, N.D.C.C. Chapter 14-02.1. The Division of Family Health has been assigned responsibility for this Section.

Section 14-02.1-02.1 of the Abortion Control Act requires printed information to be developed in four areas: a) geographically indexed material designed to inform women of public and private agencies and services available to assist them through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies; b) materials, published in booklet format, designed to inform women of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time a women can be known to be pregnant to full-term; c) materials that include information on the support obligations of the father of a child who is born alive, and; d) materials that contain objective information describing the various surgical and drug-induced methods of abortion including the immediate and long-term medical risks.

When producing documents, the Department of Health also follows N.D.C.C. Chapter 14-02.3, Limitation on Abortion, Section 14-02.3-01, state policy on abortion and childbirth, which states "An agency of this state may not produce, distribute, publish, disseminate, endorse or approve materials of any type that between normal childbirth and abortion, do not give preference, encouragement and support to normal childbirth."

Printed materials for (a) and (b) above have already been produced and distributed from previous law requirements. Current department review practices and adopted amendments to 2011 HB 1297 require the documents to be updated and reprinted. Printed materials for (c) and (d) above are new from adopted amendments to 2011 HB 1297. Through research of other states published materials relating to pregnancy and abortion, reviewing the flow of information and considering fiscal limitations, it has been decided to combine printed materials for (b), (c), and (d) into one document. Due to the size of the printed material for (a) above, it has not been combined with the other printed materials but is referenced in the combined document, with information provided on how to order a copy of the document and where it can be accessed online.

All printed materials are currently complete in "draft" form and are being shared with key partners for review and input. Dissemination of materials is anticipated by January 1, 2012.

As required by 2011 HB 1297, an inventory of material has been developed that outlines the frequency with which the material is gathered, received or created. In addition, a narrative report has been created that outlines the department's practices in gathering, receiving, and creating items in the inventory. Please refer to the attachment and I will briefly walk you through the document.

The second part, Section 14-02.1-02.2, deals with the abortion report form of the Abortion Control Act, N.D.C.C. Chapter 14-02.1. The North Dakota Department of Health's Division of Vital Records has the responsibility for this requirement of law and the changes that were required by HB 1297. I will provide you with an update of that section and Darin Meschke, Director of the Division of Vital Records, also is here to answer any questions you may have.

Section 14-02.1-02.2 of the Abortion Control Act requires that the Department of Health prepare an abortion compliance report and an abortion data report that must be filed for each abortion that takes place in our state. I have distributed copies of each of these forms for your review. The data report was an existing report that was redesigned to include question #18 as a new requirement for collecting adverse event data. The compliance report was a new report that outlines the requirements of the Abortion Control Act and what must be done for each abortion. Both of these forms have been used starting August 1, 2011.

Shortly after the distribution of these forms, the Department of Health was informed by the Attorney General's office that a lawsuit had been filed by the Red River Women's Clinic in Fargo, objecting to several things in HB 1297. The clinic has objected to the new question #18 on the data report and several questions on the compliance report. The clinic is still submitting the reports to our office, but the questions they are objecting to have not been completed. Instead, they have had a red stamp made that indicates the question is part of the lawsuit and cannot be completed.

The Division of Vital Records also manages and safeguards the data collected from these two reports and provides statistical data to qualified research projects that have a need for the data and have completed a data use agreement for access to the data. The department's responsibility governing the reporting of abortion data requires that Vital Records produce an annual report on abortions and that report may be found on our website. The annual report was not a new requirement in HB 1297.

This concludes my presentation. I am happy to answer any questions you may have.