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H.563

Introduced by Representatives Strong of Albany, Achey of Middletown  
Springs, Hango of Berkshire, Higley of Lowell, Lefebvre of  
Orange, Martel of Waterford, Morrissey of Bennington,  
Peterson of Clarendon, Rosenquist of Georgia, and Williams of  
Granby

Referred to Committee on

Date:

Subject: Health; facilities providing abortions

Statement of purpose of bill as introduced: This bill proposes to require  
standards for facilities that provide abortion services and require that such  
facilities be licensed by the State.

An act relating to regulating facilities that provide abortion services

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 9494 is amended to read:

§ 9494. INTERFERENCE WITH REPRODUCTIVE CHOICE PROHIBITED

(a) ~~A~~ Except as provided in chapter 224 of this title, a public entity as  
defined in section 9496 of this title shall not, in the regulation or provision of  
benefits, facilities, services, or information, deny or interfere with an  
individual's fundamental rights to choose or refuse contraception or

1 sterilization or to choose to carry a pregnancy to term, to give birth to a child,  
2 or to obtain an abortion.

3 (b) No State or local law enforcement shall prosecute any individual for  
4 inducing, performing, or attempting to induce or perform the individual's own  
5 abortion.

6 Sec. 2. 18 V.S.A. § 9497 is amended to read:

7 § 9497. ABORTION; RESTRICTING ACCESS PROHIBITED

8 ~~A~~ Except as provided in chapter 224 of this title, a public entity shall not:

9 (1) deprive a consenting individual of the choice of terminating the  
10 individual's pregnancy;

11 (2) interfere with or restrict, in the regulation or provision of benefits,  
12 facilities, services, or information, the choice of a consenting individual to  
13 terminate the individual's pregnancy;

14 (3) prohibit a health care provider, acting within the scope of the health  
15 care provider's license, from terminating or assisting in the termination of a  
16 patient's pregnancy; or

17 (4) interfere with or restrict, in the regulation or provision of benefits,  
18 facilities, services, or information, the choice of a health care provider acting  
19 within the scope of the health care provider's license to terminate or assist in  
20 the termination of a patient's pregnancy.

1 Sec. 3. 18 V.S.A. chapter 224 is added to read:

2 CHAPTER 224. FACILITIES PROVIDING ABORTIONS

3 Subchapter 1. General Provisions

4 § 9499. DEFINITIONS

5 As used in this chapter:

6 (1) “Facility providing abortions” means any distinct entity that, as all or  
7 part of the health care services it provides, performs or induces abortions.

8 (2) “Patient” means a person admitted to or receiving health care  
9 services from a facility providing abortions.

10 (3) “Physician” means a physician licensed pursuant to 26 V.S.A.  
11 chapter 23 or 33.

12 Subchapter 2. Licensure of Facilities Providing Abortions

13 § 9499a. LICENSE

14 No person shall establish, maintain, or operate a facility providing abortions  
15 in this State without first obtaining a license for the facility providing abortions  
16 in accordance with this subchapter.

17 § 9499b. APPLICATION; FEE

18 (a) An application for licensure of a facility providing an abortion shall be  
19 made to the Department of Health on forms provided by the Department and  
20 shall include all information required by the Department. Each application for  
21 a license shall be accompanied by a license fee.

1       (b) The annual licensing fee for a facility providing abortions shall be  
2       \$2,000.00, provided that the fee for an applicant that presents evidence of  
3       current accreditation by an accrediting organization approved by the  
4       Department shall be reduced by the amount paid to the accrediting  
5       organization to obtain the accreditation.

6       (c) Fees collected under this section shall be credited to a special fund  
7       established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and  
8       shall be available to the Department to offset the costs of licensing facilities  
9       providing abortions.

10       § 9499c. LICENSE REQUIREMENTS

11       (a) Upon receipt of an application for a license and the licensing fee, the  
12       Department of Health shall issue a license if it determines that the applicant  
13       and the facilities of the facility providing abortions meet the following  
14       minimum standards:

15               (1) The applicant shall demonstrate the capacity to operate a facility  
16               providing abortions in accordance with rules adopted by the Department.

17               (2) The applicant shall demonstrate that its facilities comply fully with  
18               standards for health, safety, and sanitation as required by State law, including  
19               standards set forth by the State Fire Marshal and the State Board of Health, and  
20               municipal ordinance.

1           (3) The facility providing abortions shall not mix functions or operations  
2           in a common space with another entity during concurrent or overlapping hours  
3           of operation.

4           (4) The clinical services provided by the facility providing abortions  
5           shall be managed by a medical director, who shall be a physician.

6           (5) The facility providing abortions shall ensure that all patients  
7           admitted to or receiving services from the facility providing abortions shall be  
8           under the care of a practicing physician.

9           (6) The nursing service of the facility providing abortions shall be  
10          directed at all times by a registered nurse or advanced practice registered nurse  
11          licensed pursuant to 26 V.S.A. chapter 28.

12          (7) The facility providing abortions shall have an organized medical  
13          staff of not fewer than three members that shall meet at least annually.

14          (b) A license is not transferable or assignable and shall be issued only for  
15          the premises and persons named in the application.

16          (c) The Department shall make or cause to be made such inspections and  
17          investigations as it deems necessary. If the Department finds a violation as the  
18          result of an inspection or investigation, the Department shall post a report on  
19          its website summarizing the violation and any corrective action required.

20          (d) Information received by the Department through filed reports,  
21          inspection, or as otherwise authorized by law shall:

1           (1) not be disclosed publicly in a manner that identifies or may lead to  
2           the identification of one or more individuals or facilities;

3           (2) be exempt from public inspection and copying under the Public  
4           Records Act; and

5           (3) be kept confidential except as it relates to a proceeding regarding  
6           licensure of a facility.

7           (e) The provisions of subsection (d) of this section shall not apply to the  
8           summary reports of violations required to be posted on the Department's  
9           website pursuant to subsection (c) of this section.

10       § 9499d. REVOCATION OF LICENSE; HEARING

11       The Department of Health, after notice and opportunity for hearing to the  
12       applicant or licensee, is authorized to deny, suspend, or revoke a license in any  
13       case in which it finds that there has been a substantial failure to comply with  
14       the requirements established under this chapter. Such notice shall be served by  
15       registered mail or by personal service, shall set forth the reasons for the  
16       proposed action, and shall set a date not less than 60 days from the date of the  
17       mailing or service on which the applicant or licensee shall be given  
18       opportunity for a hearing. After the hearing, or upon default of the applicant or  
19       licensee, the Department shall file its findings of fact and conclusions of law.  
20       A copy of the findings and decision shall be sent by registered mail or served  
21       personally upon the applicant or licensee. The procedure governing hearings

1 authorized by this section shall be in accordance with the usual and customary  
2 rules provided for such hearings.

3 § 9499e. APPEAL

4 Any applicant or licensee, or the State acting through the Attorney General,  
5 aggrieved by the decision of the Department of Health after a hearing may,  
6 within 30 days after entry of the decision as provided in section 2154 of this  
7 title, appeal to the Superior Court for the district in which the appellant is  
8 located. The court may affirm, modify, or reverse the Department's decision,  
9 and either the applicant or licensee or the Department or State may appeal to  
10 the Vermont Supreme Court for such further review as is provided by law.  
11 Pending final disposition of the matter, the status quo of the applicant or  
12 licensee shall be preserved, except as the court otherwise orders in the public  
13 interest.

14 § 9499f. INSPECTIONS

15 The Department shall make or cause to be made such inspections and  
16 investigation as it deems necessary.

17 § 9499g. RECORDS

18 Information received by the Department through filed reports, inspections,  
19 or as otherwise authorized by law:

1           (1) shall not be disclosed publicly in a manner that identifies or may  
2           lead to the identification of one or more individuals or facilities providing  
3           abortions;

4           (2) is exempt from public inspection and copying under the Public  
5           Records Act; and

6           (3) shall be kept confidential except as it relates to a proceeding  
7           regarding licensure of a facility providing abortions.

8           § 9499h. RULES

9           The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 as needed  
10          to carry out the purposes of this chapter. To the extent practicable, the  
11          Department's rules for licensure of facilities providing abortions shall align  
12          with its rules for licensure of hospitals.

13          Sec. 4. EFFECTIVE DATE

14          This act shall take effect on passage, provided that any facility providing  
15          abortions on that date shall have six months to complete the licensure process.