



PUBLIC NOTICE OF PROPOSED RULE CHANGES

Pursuant to the Georgia Administrative Procedures Act, Official Code of Georgia (O.C.G.A.) § 50-13-1, *et seq.*, the Georgia Department of Community Health is required to provide public notice of its intent to adopt, amend, or repeal certain rules other than interpretative rules or general statements of policy. Accordingly, the Department hereby provides notice of its intent to revise its rules and regulations, specifically, Ga. Comp. R. & Regs. r. 290-5-32, Rules of Department of Human Services, Chapter 290-5 Public Health. The proposed rule changes reflect an amendment to rules cited in Ga. Comp. R. & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5-32-.05 by repealing said rules made obsolete by the passage of House Bill 481 during the 2019 legislative session. These changes are being proposed pursuant to the authority granted to the Department of Community Health in O.C.G.A. §§ 31-2-2 and 31-2-5. An exact copy of the revised rules and a synopsis of the revisions are attached to this public notice.

NOTICE OF PUBLIC HEARING

An opportunity for public comment will be held on September 7, 2022 at 11:00 a.m. via Zoom. There will be no in-person attendance at the Department of Community Health. The Zoom meeting ID number is 8868087 9087 and the event password is “**Open**”. Follow these instructions to join the event:

1. Click the link or copy and paste the link text to a browser:

<https://us02web.zoom.us/j/88680879087?pwd=d05iV3JDcGlmVHdPV0VuSnVCZEZNdz09>

2. Click “Join Now”

To join by telephone: One tap mobile

+13126266799,,88680879087# US (Chicago)

+16465588656,,88680879087# US (New York)

Meeting ID: 886 8087 9087

Oral comments will be limited to ten (10) minutes per person. Individuals who are disabled and require assistance to participate during this meeting should contact the Office of General Counsel at (404) 657-7195 at least three (3) business days prior to the meeting.



**GEORGIA DEPARTMENT
OF COMMUNITY HEALTH**

Individuals wishing to comment in writing on any of the proposed changes must do so on or before September 9, 2022 at 5:00 p.m. Due to reduced physical staffing at the 2 Peachtree Street location in an attempt to limit the amount of exposure to COVID-19, DCH encourages written public comments submitted in accordance with O.C.G.A. § 50-13-4(a)(2) to be submitted via e-mail to the following e-mail address: **PublicComment@dch.ga.gov**.

Written comments may be submitted via regular mail to the following address:

Attention: Alycia Allgood
Office of General Counsel
Georgia Department of Community Health
2 Peachtree Street, NW, 40th Floor
Atlanta, GA 30303

Comments from written and public testimony will be provided to the Board of Community Health prior to October 13, 2022. The Board will vote on the proposed changes on October 13, 2022.

NOTICE IS HEREBY GIVEN THIS 11th DAY OF AUGUST, 2022

A handwritten signature in blue ink that reads "Caylee Noggle".

Caylee Noggle, Commissioner

290. RULES OF DEPARTMENT OF HUMAN SERVICES
290-5. PUBLIC HEALTH
290-5-32. PERFORMANCE OF ABORTIONS AFTER THE FIRST TRIMESTER
OF PREGNANCY AND REPORTING REQUIREMENTS FOR ALL
ABORTIONS

AMEND CHAPTER 290-5-32

SYNOPSIS OF REVISED RULES

STATEMENT OF PURPOSE:

The Georgia Department of Community Health proposes to amend and repeal the Rules of Department of Human Services, Public Health, Ga. Comp. R. & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5-32-.05. These rules are being amended for repeal pursuant to the authority granted to the Department of Community Health in O.C.G.A. § 31-2-2 and O.C.G.A. § 31-2-5.

MAIN FEATURES OF THE PROPOSED RULE:

The proposed rule changes reflect amendments to rules cited in Ga. Comp. R. & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5-32-.05 by repealing said rules made obsolete by the passage of House Bill 481 during the 2019 legislative session.

290. RULES OF DEPARTMENT OF HUMAN SERVICES
290-5. PUBLIC HEALTH
290-5-32. PERFORMANCE OF ABORTIONS AFTER THE FIRST TRIMESTER
OF PREGNANCY AND REPORTING REQUIREMENTS FOR ALL
ABORTIONS

AMEND CHAPTER 290-5-32

TABLE OF CONTENTS

290-5-32-.01	Repealed. Definitions
290-5-32-.02	Repealed. Regulation of Abortion Procedures Subsequent to the First Trimester
290-5-32-.04	Repealed. Severability
290-5-32-.05	Repealed. Enforcement

Rule 290-5-32-.01 Repealed. Definitions

~~Unless a different meaning is required by the context or pertinent statutes, the following terms as used in these Rules and Regulations shall have the meaning hereinafter respectively ascribed to them; except, these Rules and Regulations do not apply to hospitals owned or operated by the United States Federal Government.~~

~~(a) "Induced Abortion" means the procedure by which pregnancy is purposely terminated with the intent to result in other than a live birth.~~

~~(b) "First Trimester" means the first thirteen completed weeks after the first day of the last normal menstrual cycle.~~

~~(c) "Second Trimester" means the second thirteen weeks or gestation.~~

~~(e) "Hospital" means a facility which is subject to regulation and control under Section 31-7-1 of the Official Code of Georgia Annotated (Regulation of Hospitals and Related Institutions) as well as the Rules and Regulations duly promulgated thereunder and in particular the Rules and Regulations embodied in Chapter 290-5-6 entitled "Hospitals" duly promulgated by the Georgia Department of Human Resources, as such law and regulations now exist or may subsequently be amended.~~

~~(f) "Ambulatory Surgical Treatment Centers" means any institution, building, or facility, or part thereof, devoted primarily to the provision of surgical treatment to patients not requiring hospitalization, as provided under provisions of Code Section 31-7-1 of the Official Code of Georgia Annotated. Such facilities do not admit patients for treatment which normally requires overnight stay, nor provide accommodations for treatment of patients for periods of twenty four (24) hours or longer.~~

~~(g) "Abortion Facility" means a facility licensed by the Department as a hospital or ambulatory surgical treatment center.~~

~~(h) "Department" means the Department of Human Resources of the State of Georgia.~~

~~(i) "Commissioner" means the Commissioner of the Department of Human Resources of the State of Georgia.~~

~~(j) "Board" means the Board of Human Resources of the State of Georgia.~~

Cite as Ga. Comp. R. & Regs. R. 290-5-32-.01

Authority: O.C.G.A. Secs. 31-2-2 and 31-2-5; O.C.G.A. Sec. 16-12, Art. 5; O.C.G.A. Sec. 50-13, Art. 1.

History. Original Rule entitled "Definitions" was filed on September 18, 1974; effective October 8, 1974. **Amended:** Rule repealed and Emergency Rule 290-5-32-0.4-.01, of the same title, adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency

Proposed Rule Changes in Chapter 290-5-32

Presented to the BCH for Initial Adoption on 8/11/2022

Rule, as specified by the Agency. **Amended:** Emergency Rule 290-5-32-0.4-.01 repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

Rule 290-5-32-.02 ~~Repealed. Regulation of Abortion Procedures Subsequent to the First Trimester~~

~~(1) No abortion is authorized nor shall be performed after the first trimester unless the abortion is performed in an abortion facility; provided, however, that abortion procedures performed in an ambulatory surgical treatment center shall be limited to dilatation and evacuation procedures (D & E).~~

~~(2) No abortion is authorized nor shall be performed after the second trimester unless the attending physician and two consulting physicians certify in writing and make such statement a part of the medical records of the patient that said abortion is necessary in their best clinical judgment to preserve the life or health of the woman. If the product of such abortion is capable of meaningful or sustained life, medical aid then available must be rendered in order to achieve this result.~~

~~(3) Nothing in these Rules and Regulations shall require an abortion facility or physician to admit any patient for the purpose of performing an abortion. In addition, any person who shall state in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to participate in procedures which will result in such abortion, and refusal of such person to participate therein, shall not form the basis for any claim for damage or account of such refusal or for any disciplinary or recriminatory action against such person. The written objection shall remain in effect until such person shall revoke it or terminate his association with the facility with which it is filed.~~

Cite as Ga. Comp. R. & Regs. R. 290-5-32-.02

Authority: O.C.G.A. Secs. 31-2-2 and 31-2-5; O.C.G.A. Sec. 16-12, Art. 5; O.C.G.A. Sec. 50-13, Art. 1.

History. Original Rule entitled "Regulation of Abortion Procedures Subsequent to the First Trimester" was filed on September 18, 1974; effective October 8, 1974. **Amended:** Rule repealed and Emergency Rule 290-5-32-0.4-.02, of the same title, adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. **Amended:** Emergency Rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983;

Proposed Rule Changes in Chapter 290-5-32
Presented to the BCH for Initial Adoption on 8/11/2022

effective November 9, 1983.

Rule 290-5-32-.04 Repealed. Severability

~~In the event that any rule, sentence, clause or phrase of any of these rules are in conflict with any superior law or, should be declared or adjudged invalid or unconstitutional, such determination or adjudication shall in no manner affect the remaining rules or portions thereof and such remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof.~~

Cite as Ga. Comp. R. & Regs. R. 290-5-32-.04

Authority: O.C.G.A. Secs. 31-2-2 and 31-2-5; O.C.G.A. Sec. 16-12, Art. 5; O.C.G.A. Sec. 50-13, Art. 1.

History. Original Rule entitled "Application" was filed on September 18, 1974; effective October 8, 1974. **Amended:** Rule repealed and Emergency Rule 290-5-32-0.4-.04, entitled "Severability," adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. **Amended:** Emergency rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

Rule 290-5-32-.05 Repealed. Enforcement

~~In addition to the penal provisions of Section 16-12-143 of the Official Code of Georgia Annotated, which states that any person who fails to file or maintain, in complete form, any of the written reports required in that Chapter (as further reflected in these rules relating to abortions) within the time set forth shall commit a misdemeanor, and Section 16-12-140(b) of the aforesaid Code which states that a person convicted of criminal abortion shall be punished by imprisonment for not less than one (1) nor more than ten (10) years, except that a person convicted of failure to file the forms and records required by this Chapter shall be punished under Section 16-12-143, the administration and enforcement of these Rules and Regulations shall be as prescribed in Section 31-5-1 entitled "Administration and Enforcement" of the Official Code of Georgia Annotated and in conformity with the Administrative Procedure Act (Section 50-13-1 of the Official Code of Georgia Annotated), as~~

Proposed Rule Changes in Chapter 290-5-32
Presented to the BCH for Initial Adoption on 8/11/2022

| ~~amended.~~

Cite as Ga. Comp. R. & Regs. R. 290-5-32-.05

Authority: O.C.G.A. Secs. 31-2-2 and 31-2-5; O.C.G.A. Sec. 16-12, Art. 5; O.C.G.A. Sec. 50-13, Art. 1.

History. Original Rule entitled "Procedure for Filing Certificate of Abortion" was filed on September 18, 1974; effective October 8, 1974. **Amended:** Rule repealed and Emergency Rule 290-5-32-0.4-.05, entitled "Enforcement." adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. **Amended:** Emergency rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.