

The Pain-Capable Unborn Child Protection Act Initial Report for 5/26/2015 to 12/31/2015

August 2016

BACKGROUND

During the 2015 regular session, the West Virginia Legislature enacted House Bill 2568 -- "The Pain-Capable Unborn Child Protection Act." The bill became effective for all induced terminations of pregnancy performed in West Virginia after May 25, 2015.

The Act prohibits health care providers, except in the case of a medical emergency or a non-medically viable fetus, from performing or inducing an abortion if the probable gestational age of the fetus has reached the pain-capable gestational age -- 22 weeks since the first day of the woman's last menstrual period which is generally consistent with 20 weeks after fertilization.

The Act mandates that physicians who perform or induce an abortion file a report with the West Virginia Bureau for Public Health and requires the West Virginia Department of Health and Human Resources to publish a public report of the information reported by physicians.

To comply with the new reporting requirements, the West Virginia Health Statistics Center modified the "Report of Induced Termination of Pregnancy (ITOP)" form to conform to the Act's requirements. The new ITOP form and instructions were distributed to all hospitals and free-standing facilities beginning in mid-May of 2015. The ITOP form and instructions were distributed to all physicians licensed to practice in West Virginia in late 2015 by the West Virginia Bureau for Public Health's Office of Maternal, Child and Family Health.

ANALYSIS

Because a full year of data is unavailable for several items specific to the Act, the following analysis is limited to those procedures performed in West Virginia from May 26, 2015, through December 31, 2015. Furthermore, the data has not been fully validated and is subject to correction. It is anticipated that the data from the new ITOP form will be fully validated in the late fall/early winter of 2016 along with the information for those procedures that were performed prior to May 26, 2015. As such, further analysis could vary slightly. Future publications of this dataset will be for a calendar year.

From May 26, 2015, through December 31, 2015, a total of 864 induced terminations of pregnancy was reported as being performed in West Virginia. For all 864 procedures, a probable age of gestation was determined and reported. Ultrasound was employed in 863 of the patient cases to assist in the determination of probable gestational age.

ANALYSIS continued

In terms of the frequency distribution of terminations by probable gestational age, 545 of the 864 procedures (63.1%) occurred at 8 weeks or less gestation. Four of the pregnancies, less than one-half of a percent, were terminated at 20 probable weeks of gestation or greater (the “pain-capable” gestational age).

| Table 1 | | |
|---|---------------------|-----------------------------|
| Induced Terminations of Pregnancy | | |
| WV Occurrences, 5/26/2015 - 12/31/2015 | | |
| By Selected Probable Gestational Ages | | |
| Probable Gestational Ages (weeks) | Procedures # | Percent Distribution |
| <=8 | 545 | 63.1% |
| 9-10 | 138 | 16.0% |
| 11-12 | 105 | 12.2% |
| 13-15 | 49 | 5.7% |
| 16-19 | 23 | 2.7% |
| 20+ | 4 | 0.5% |
| Total | 864 | 100.0% |

The primary termination methods were surgical in nature, comprising approximately 85% of all procedures performed. Medical (non-surgical) procedures made up the balance of the procedures.

| Table 2 | | |
|---|---------------------|-----------------------------|
| Induced Terminations of Pregnancy | | |
| WV Occurrences, 5/26/2015 - 12/31/2015 | | |
| By Method of Termination | | |
| Method Of Termination | Procedures # | Percent Distribution |
| Surgical - Total | 734 | 85.0% |
| -- Dilation and Curettage (D&C) | 558 | 64.6% |
| -- Dilation and Evacuation (D&E) | 176 | 20.4% |
| Medical (non-surgical) | 130 | 15.0% |
| Total | 864 | 100.0% |

ANALYSIS continued

Of the four pregnancies that were terminated at 20 or more weeks probable gestation, all were terminated on the basis of the mother having a condition that complicated her medical condition so as to necessitate the termination of her pregnancy to avert her death or substantial and irreversible impairment of a major bodily function and/or the fetus was considered to be non-viable. Specific conditions mentioned included: severe/life-threatening chorioamnionitis/sepsis, multiple anomalies, and fetal anencephaly. Of the four pregnancies that were terminated, all four of the ITOP reports indicate that the method used to terminate was not chosen to provide the best opportunity for survival of the fetus due to another termination method posing either a greater risk of the death of the pregnant woman or the substantial and irreversible physical impairment of a major bodily function.

CONTACT INFORMATION

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