

CHAPTER 44:67:04

FACILITY AND RELATED CARE SERVICES

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Appendix A. Informed consent form.

44:67:04:12. Required informed consent form. To meet the requirements of § 34-23A-10.1(1), the physician shall use the informed consent form provided in Appendix A.

Source:

General Authority: SDCL 34-23A-10.5.

Law Implemented: SDCL 34-23A-10.1(1), 34-23A-10.5.

DEPARTMENT OF HEALTH

ABORTION FACILITIES

INFORMED CONSENT FORM

CHAPTER 44:67:04

APPENDIX A

SEE: 44:67:04:12

Source:

**Informed Consent for Abortion in South Dakota
(SDCL 34-23A-10.1(1))**

The use of this form is statutorily-mandated to satisfy the requirements of SDCL 34-23A-10.1(1). Further questions about pregnancy or abortion issues should be directed to your medical providers.

Under SDCL 34-23A-10.1(1), consent to an abortion is not voluntary and informed, unless the physician provides that pregnant woman, upon whom the physician intends to perform the abortion, with a statement in writing providing the following information:

1-a) The name of the physician who will perform the abortion.

1-b) The abortion will terminate the life of a whole, separate, unique, living human being; the term "human being" means, for the purpose of this and the following disclosures, "an individual living member of the species Homo sapiens during its embryonic or fetal ages."

1-c) A pregnant woman and this unborn human being have a relationship that is protected under the United States Constitution and the laws of the State of South Dakota. The existence of this relationship protects a pregnant woman legally and constitutionally from having an abortion against her will.

1-d) An abortion will terminate this relationship and a pregnant woman's legal and constitutional rights to that relationship.

1-e) A description of all known medical risks of the procedure and statistically significant risk factors to which the pregnant woman would be subjected, including:

- **Depression and related psychological distress** – Each woman having an abortion may experience different emotions before and after the procedure, sometimes years later. Women often have both positive and negative feelings after having an abortion. These feelings may include emptiness and guilt as well as sadness. A woman may question whether she made the right decision. Some women may feel relief about their decision and that the procedure is over. Other women may feel anger at having to make the choice. Women who experience sadness, guilt or difficulty after the procedure may be those women who were forced or pressured into the decision by a partner or family member, or who have had serious psychiatric counseling before the procedure or who were uncertain of their decision.

Counseling or support before and after abortion is very important. If family help and support is not available to the woman, the feelings that appear after an abortion may be harder to adjust to. Talking with a professional and objective counselor before and after having an abortion can help a woman better understand her decision and the feelings she may experience after the procedure. If counseling is available to the woman, these feelings may be easier to handle.

Remember, it is your right and the doctor's responsibility to fully inform you prior to the procedures. Be encouraged to ask all of your questions.

- **Increased risk of suicide ideation and suicide** –Some studies show that an abortion places a woman at increased risk for suicidal thoughts and suicide.

On _____ [date], at _____ [time of day], I, _____,
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Counseling or support before and after the abortion is very important. If family help and support is not available to the woman, the feelings that appear after an abortion may be harder to adjust to. Talking with a professional and objective counselor before and after having an abortion can help a woman to better understand her decision and the feelings she may experience after the procedure. If counseling is available to the woman, these feelings may be easier to handle.

- **A statement setting forth an accurate rate of deaths due to abortions, including all deaths in which the abortion procedure was a substantial contributing factor**
– South Dakota has reported no deaths due to induced abortions (records available from 1987 through the present).
- **All other known medical risks to the physical health of the woman, including the risk of infection, hemorrhage, danger to subsequent pregnancies, and infertility**
– Descriptions of abortion methods used for each trimester of pregnancy are provided below in alphabetical order. Any of the below mentioned risks or complications can be lessened with good medical care.

FIRST TRIMESTER ABORTION METHODS (0 – 14 weeks of pregnancy)

Dilation and Sharp Curettage (D & C)

In this type of procedure, the cervix is slowly opened and the fetus, placenta and membranes are scraped from inside the uterus with a sharp instrument.

Possible complications

Incomplete abortion requiring vacuum aspiration	Infection of fallopian tubes
Infection of the uterus	Punctured uterus
Excessive bleeding	Blood clots in the uterus
Torn cervix	Reaction to anesthesia
	Infertility

Methotrexate/misoprostol

This is a type of medical abortion with the first medication, Methotrexate, being given by injection into the muscle, followed by vaginal placement of misoprostol. The fetus, placenta and membranes are generally expelled the next day. If not, the dosage of misoprostol is repeated.

Possible complications

Incomplete abortion which may necessitate a surgical abortion	Nausea and vomiting
Allergic reaction to medications	Diarrhea
Prolonged bleeding	Abdominal pain and cramping

Mifepristone/misoprostol (RU-486)

This medication can be taken up to 9 weeks after conception. The woman is given Mifepristone to be taken by mouth. After a period of time in the doctor's office, she may return home. At 36 – 48 hours after this dose, the woman returns to receive the proper amount of misoprostol.

The client should then be watched closely by doctors and nurses for a few hours. The fetus, placenta and membranes are usually expelled during this time. The woman should return to the doctor's office on the 14th day after taking the medication to assure that there are no problems and that the fetus, placenta and membranes have been fully expelled.

Discontinuation of Drug-Induced Abortion

On _____ [date], at _____ [time of day], I, _____,
[signature of pregnant woman], certify that I read and I understand the above disclosures on this page.
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Even after a pregnant mother takes Mifepristone, it is still possible to discontinue a drug-induced abortion by not taking the prescribed Misoprostol. Information is available on the Department of Health website <http://doh.sd.gov/abortion/>. For more specific information, please contact your physician or medical provider.

Possible complications

Incomplete abortion which may necessitate a surgical abortion	Nausea and vomiting
Allergic reaction to medications	Diarrhea
Prolonged bleeding	Abdominal pain and cramping

Vacuum Aspiration

This is the most common abortion procedure in the first trimester, with 97% of all abortions during that time period being performed in this manner. The cervix is opened enough to allow the insertion of a suction catheter (tube). The fetus, placenta and membranes are then removed by the use of the specially designed suction catheter or vacuum device.

This method generally takes approximately 5 minutes after the cervix has been opened. Cervical dilation can take several hours.

Possible complications

Incomplete abortion requiring vacuum aspiration	Infection of fallopian tubes
Infection of the uterus	Punctured uterus
Excessive bleeding	Blood clots in the uterus
Torn cervix	Reaction to anesthesia
	Infertility

SECOND TRIMESTER ABORTION METHODS (14 – 26 weeks of pregnancy)

Abdominal hysterotomy

Similar to a caesarean birth, an incision is made in the uterus and the fetus is removed. It is usually performed in cases of failed prostaglandin or intra-amniotic instillations. Anesthesia is given to the woman so she will not feel the surgery.

Possible complications

Infection of incision	Blood clots in the uterus
Severe systemic infection (sepsis)	Heavy bleeding
Blood clots to the heart, lungs and brain (emboli)	Pelvic infection
Stomach contents breathed into the lungs (aspiration pneumonia)	Retention of pieces of the placenta
Injury to the urinary tract	Reaction to the anesthesia
	Infertility

Dilation and evacuation

This procedure is performed under local anesthetic between 13 and 20 weeks of pregnancy. It involves the gradual opening of the cervix and removal of the fetus, placenta and membranes by alternating suction and sharp curettage. This is currently the most common method used in the second trimester.

Possible complications

Blood clots in the uterus	Pelvic infection
Heavy bleeding	Incomplete abortion
Cut or torn cervix	Reaction to the anesthesia
Perforation (puncture) of the wall of the uterus	Infertility

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Intra-amniotic instillations

Solutions of hypertonic urea and a prostaglandin may be instilled into the amniotic sac after partial removal of the amniotic fluid. Urea kills the fetus, and prostaglandin helps ensure expulsion. Contractions begin within 8 to 12 hours and may last 48 hours before the fetus, placenta and membranes are expelled.

Possible complications

Retention of pieces of the placenta	Blood clots
Pelvic infection	Incomplete abortion
Heavy bleeding	Reaction to anesthesia
Ruptured uterus	Infertility

Vaginal prostaglandin

Prostaglandin E2 causes the uterus to contract and the cervix to soften and open. These actions result in the eventual expulsion of the fetus, placenta and membranes. The prostaglandin is supplied in the form of vaginal suppositories or gels applied to the cervical canal. Oxytocin may be given after the administration of the prostaglandin if labor contractions are not strong enough.

Possible complications

Retention of pieces of the placenta	Blood clots
Pelvic infection	Incomplete abortion
Heavy bleeding	Reaction to anesthesia
Ruptured uterus	Infertility

THIRD TRIMESTER ABORTION METHODS (26 – 40 weeks of pregnancy)

Abdominal hysterotomy

See above

Intact dilation and extraction (partial birth abortion)

In this procedure, the physician pulls the fetus feet-first out of the uterus into the birth canal, except for the head which is kept lodged just inside the uterus. The base of the fetus's skull is punctured with a sharp instrument such as a long scissors or pointed metal tube. A catheter is inserted into the wound and removes the fetus's brain with a powerful suction machine. This causes the skull to collapse, and allows for the expulsion of the fetus.

Possible complications

Risks are similar to childbirth	High blood pressure
Uterine infection	Reaction to anesthesia
Blood clots to heart, lungs and brain	Infertility
Heavy bleeding	

Explanation of Risks

Any of the below mentioned risks may be lessened with good medical care.

Anesthesia is generally given for surgical abortions (D & C, Vacuum Aspiration, Dilation and Evacuation, Abdominal Hysterotomy, Intra-amniotic instillations, and Intact Dilation and Extraction). Reactions to anesthesia include:

Reactions to medications

- An adverse drug reaction is any effect not intended by proper use of a medication.
- Reactions also can occur between medications, even non-prescription ones.

Problems breathing

Shortness of breath has many different causes.

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- Blockage of the air passages of the nose, mouth, or throat may lead to difficulty breathing.
 - Heart disease can cause shortness of breath if the heart is not able to pump enough blood to supply oxygen to the body.
 - If the brain, muscles, or other body organs do not receive enough oxygen, a sense of breathlessness may occur.
 - Sometimes emotional distress, such as feeling anxious can lead to difficulty breathing.

Risks for any surgery are:

Bleeding

- This condition involves losing blood.
- This can occur internally (when blood leaks from blood vessels inside the body), externally through a natural opening (vagina, mouth or rectum) or externally through a break or wound in the skin.

Infection

- A disease caused by microorganisms (germs), especially those that release toxins or invade body tissues.

Additional risks of abortion include:

Excessive bleeding

- Excessive bleeding or hemorrhage is defined as the rapid loss of blood of more than 1% of body weight or 10% of total blood volume.
- Rapid loss of more than 1.5 to 2 liters of blood may result in hypovolemic (low blood volume) shock.
- Early symptoms would include pale, clammy skin, decreased urine output, discoloration (turning blue) of lips and nail beds.
- These may be followed closely by feelings of anxiety, restlessness and shortness of breath.

Infection of the uterus

- Infections of the uterus can be decreased by screening and treating for sexually transmitted diseases before the abortion, by complete emptying of the uterus and by giving antibiotics as a preventative measure when surgical methods have been used.
- Symptoms of infection may include abdominal pain, and or backache, cramping, fever and or chills, foul vaginal discharge, and pelvic discomfort.

Intrauterine blood clots

- These can occur either right away or as long as 5 days after a surgical abortion.
- Symptoms include severe cramping and pain without bleeding.

Infection of the fallopian tubes (which can cause scarring and lead to infertility)

- Pelvic inflammatory disease (PID) is one of the major causes of infertility (a woman has difficulty or is unable to conceive a pregnancy), ectopic pregnancy (pregnancy outside of the uterus), and chronic pelvic pain.
- PID can result from microorganisms (germs) transmitted during an abortion.
- Symptoms include lower abdominal pain, fever and chills, nausea and vomiting, unusual vaginal bleeding or foul smelling discharge.

Puncture (perforation) of the uterus, or damage to the cervix (rare)

- Puncture of the uterus and tearing of the cervix are complications of surgical abortion.
- Depending on their severity, these complications may require attention ranging from simple observation to hysterectomy (removal of the uterus).

Prolonged bleeding

- Bleeding following a medical abortion may last for 30 days or more.

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- Rarely, excessive bleeding may require a D & C (scraping of the lining of the uterus) or blood transfusion.

Incomplete abortion necessitating a surgical abortion

- Some parts of the fetus, placenta or membranes may be retained resulting in the need for a follow-up curettage.

Nausea or Vomiting

- According to FDA trials, nausea occurred in 61% of women after taking Mifepristone and Misoprostol, whereas vomiting occurred in 26%.

Diarrhea

- According to FDA trials, diarrhea occurred in 20% of women after taking Mifepristone and Misoprostol.

Abdominal pain and cramping

- According to FDA trials, abdominal pain and cramping occurred in 96% of women after taking Mifepristone and Misoprostol.

Infertility

- Difficulty or inability to conceive.
- Generally results from damage to the fallopian tubes, uterus or cervix either directly by surgical procedure or as the result of infection.

Blood Clots to the Heart, Lungs or Brain

- With any surgical procedure, blood clots may form or break loose, and travel to the heart, lungs or brain. Heart attack, pulmonary emboli, or stroke may result.

Expectations after Surgery

- Most women who undergo surgical abortions done in appropriate medical facilities recover without physical complications.
- Any significant emotional and psychological issues should be considered and addressed before and after a chosen abortion.

Fetal Pain

- Findings from some studies suggest that the unborn fetus may feel pain.

1-f) The probable gestational age of the unborn child at the time the abortion is to be performed, and a scientifically accurate statement describing the development of the unborn child at that age — The probable gestational age of your unborn child, as of _____ [today's date], is _____ weeks.

4 Weeks Gestational Age

- The heart begins to form.
- Blood circulation begins.
- Because of the developing body systems, it is important that the mother gets proper nutrition and does not use alcohol, drugs or tobacco.
- Most pregnancy tests that are done in a clinic are positive by this time

6 Weeks Gestational Age

- By this time the head and upper body are well developed.
- The eyes have begun to form.
- Structures that will become arms and legs, called limb buds, begin to appear.
- The heart, now in a tubular form, begins to beat.
- The neural tube has formed which will give rise to the brain and spinal cord.

8 Weeks Gestational Age

- The embryo now has a four-chambered heart.

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- The vertebral (spinal) column is developed and visible but is composed of cartilage at this stage.
- Electrical activity begins in the developing brain and nervous system.
- The fingers begin to develop.
- Blood is being pumped through the umbilical cord to and from the embryo.
- The bluish amniotic sac surrounds the embryo. The fluid within it protects the embryo.

10 Weeks Gestational Age

- During this period the embryo reaches a transition point. It is now called a fetus, a Latin word meaning young one or offspring.
- The head is about half the size of the fetus and the tail has disappeared.
- The fetus now has a distinct human appearance.
- Arms, legs, fingers and toes are distinctly visible.
- The first real bone cells begin to replace the cartilage.
- Eyelids are formed.

12 Weeks Gestational Age

- The eyelids fuse together.
- Fingernails are developing.
- Between 10 and 12 weeks, the fetus begins small, random movements that are too slight to be felt by the mother.
- The fetal heartbeat can be detected electronically.
- All major body organs are formed although they are not able to function outside of the uterus. The rest of the pregnancy is needed to allow these organs to grow and mature.

14 Weeks Gestational Age

- The fetus is able to swallow and the kidneys are able to make urine.
- Blood begins to form in the bone marrow.
- The fetus now sleeps and awakens. It has movement of arms, legs, head and neck. The mouth of the fetus is able to open and close.
- The arms are in proportion to the body.
- The fetus is about 3 ½ inches long and weighs 1 ½ ounces.

16 Weeks Gestational Age

- By this age it is possible to distinguish the sex of the fetus.
- The head is erect and the legs are developing.
- Fine hair, called *lanugo*, has begun to grow on the head.
- The fetus is about 5 to 6 inches long and weighs about 3 to 4 ounces.

18 Weeks Gestational Age

- The body and facial features of the fetus are now recognizable.
- The fetus is able to respond to sound.
- The nose, lips and ears can be recognized at this stage.
- Scalp hair is present.
- A fetus at this age will be unable to survive if born prematurely because it is much too small and the organs are too immature.
- The fetus is about 6 inches long and weighs about 4 ½ ounces.

20 Weeks Gestational Age

- The oil glands in the skin, called *sebaceous glands*, begin to work.
- The mother will be able to feel the fetus move, kick, and punch. The movements are sometimes described as feeling like "movement of butterfly wings or bubbles." This is called *quickening*.

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- The fetus has been observed to do thumb sucking on ultrasound. The fetus at this stage has the reflex ability to suck and grasp. It may also experience hiccups.
- The fetus is about 6 ½ inches long and weighs about 5 to 8 ounces.

22 Weeks Gestational Age

- Toenails have begun to develop.
- By 22 weeks the lower limbs are fully formed.
- Head and body hair called *lanugo* thickly covers the fetus.
- The fetus is about 9 inches long and weighs about 1 pound.

24 Weeks Gestational Age

- The fetus begins to gain weight steadily, but still appears "scrawny".
- The skin is typically wrinkled and red.
- The head is still quite large compared to the rest of the body.
- Eyebrows and eyelashes are recognizable.
- With expert high-risk newborn medical attention, 60% of the infants born now will live. All will have extensive Intensive Care Nursery (ICN) stays. Forty to fifty percent of those that survive to their first birthday may have a permanent disability.

26 Weeks Gestational Age

- The fetus can respond to sounds that occur both inside the mother's body and outside in the mothers' surroundings.
- The fetus is now about 13 inches long and weighs about 2 pounds.
- The eyelids open and close.
- Approximately 85% of babies born alive now will survive if they are born in a hospital with high-risk newborn experts. These babies will have extensive ICN stays and almost 30% will have a permanent disability.

For more detail, the state's "Fetal Growth & Development" booklet provides basic information about fetal growth and development from the time of conception through birth. The booklet includes pictures, illustrations and drawings at two week increments along with relevant information about the possibility of the unborn infant's survival. The booklet may be viewed by requesting a copy from your physician, or by clicking on the Fetal Development link at <http://doh.sd.gov/abortion/embryonic-fetal-development.aspx> or you may request a printed copy by calling the Department of Health at 1-800-738-2301.

Copies of the "Fetal Growth & Development" booklet have been made available, at no cost, to your doctor. Please note that if you request a copy of the booklet from the doctor and it is supplied to you at the abortion clinic, no abortion can be performed for at least 24 hours so as to give you a chance to review the booklet. SDCL 34-23A-10.1 (2)(d).

On _____ [date], at _____ [time of day], I, _____,
 [signature of pregnant woman], certify that I read and I understand the above disclosures on this page.
 Any clarifications, explanations, or answers to my questions were provided to me in writing to my satisfaction.

I, _____ [physician], certify that all of the information set forth in SDCL 34-23A-10.1(1) has been timely provided to the above patient as directed by statute, and that to the best of my ability, I am satisfied that the patient has read and understands the materials required to be disclosed.

_____ (signature) _____ (date) _____ (time)