

Doctors unsure how to comply with new Utah fetal pain law

10 May 2016, by Michelle L. Price And Hallie Golden

Utah's first-in-the-nation requirement that fetuses receive anesthesia or painkillers before some abortions takes effect Tuesday, but doctors say it's unnecessary and impossible to comply with.

The law requires pain relief for a [fetus](#) before any [abortion](#) at 20 weeks of gestation or later, based on the disputed premise that a fetus can feel pain at that stage.

Doctors say such pain relief is futile, and there is no science or medicine laying out how they're supposed to administer it.

"The pain doesn't exist, so I can't make it go away," said David Turok of the University of Utah's obstetrics and gynecology department.

They hope the steps they already take to alleviate a woman's pain during an abortion will be enough to satisfy the law.

The governor signed the measure this year after lawmakers argued the possibility of a fetus in distress made it important to act.

"If a child can experience pain, we have an obligation to protect that child," said Republican state Sen. Curt Bramble, who sponsored the law.

No legal challenge has been filed over the law, but abortion providers and abortion-rights activists say that might be because no patient attempting to have an abortion has been forced to undergo some new kind of anesthesia or painkilling treatment.

Women undergoing an abortion after 20 weeks usually have at least moderate sedation, but there's no science or medical standard for eliminating pain felt by a fetus, said Leah Torres, a Salt Lake City obstetrician-gynecologist.

Torres went to legislators, the governor's office and

the attorney general's office seeking an explanation on what treatment she's supposed to give under the new law. She said they recommended she consult an attorney.

"I have no choice but to cross my fingers and hope that what I'm doing already is in compliance, because I don't know what they're talking about," she said.

Bramble said it's not the Legislature's job to tell a doctor how to comply with the law, which would apply to less than 1 percent of all abortions performed in the state.

"We don't tell a general contractor how to build a house, but we tell them what the standards are if they're going to build a house," he said.

Bramble originally sought to ban all abortions after 20 weeks but abandoned the idea after legislative attorneys warned him it would likely be unconstitutional. Courts across the U.S. have ruled that under the U.S. Supreme Court's 1973 *Roe v. Wade* ruling, women have a constitutionally protected right to terminate a pregnancy before a fetus is able to survive outside the womb, generally around 24 weeks of pregnancy.

Doctors with the Planned Parenthood Association of Utah think they can safely offer women [pain relief](#) without risking their health or curtailing their ability to have an abortion, so it wasn't worth the time, money and effort to challenge the law in court, said organization CEO Karrie Galloway.

"It's a bogus law," Galloway said. "I'm sorry about it, but I can't take on every silly thing that people do."

The law does not apply to abortions performed to save the mother's life; abortions where the fetus has a defect that two doctors agree is lethal; or abortions where two doctors agree that giving a woman anesthesia or painkillers would risk her life

or cause critical health problems.

No other U.S. state has such a law, according to the nonprofit abortion-rights group Guttmacher Institute. Montana lawmakers passed a similar measure in 2015, but the state's Democratic governor vetoed it.

Utah already had a law on the books giving women the option of anesthesia or painkillers for a fetus before any abortion after 20 weeks. There's no data on how many women opted for it or how it was administered.

President of Pro-Life Utah Mary Taylor supports the [law](#) but said she would have preferred it banned abortions beginning at the point when a fetus feels pain, which she thinks is earlier than 20 weeks.

"We do believe it has opened up a discussion and maybe promoted some awareness into the subject of fetal pain," Taylor said. "That would be the biggest benefit."

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