

SUBJECT: REPRODUCTIVE HEALTH	REFERENCE #
DEPARTMENT: HOSPITALWIDE	PAGE: 1 OF: 3
APPROVED BY:	EFFECTIVE: 11/5/1991
	REVISED: 09/20/2013

**POLICY:**

The Reproductive Privacy Act was approved by the voters of the state of Washington on November 5, 1991 and declares that it is the public policy of the state of Washington that:

- (1) every individual has a fundamental right to choose or refuse birth control;
- (2) every woman has a fundamental right to choose or refuse to have an abortion, except as specifically limited by the Reproductive Privacy Act;
- (3) the state and its municipal corporations shall not deny or interfere with a woman's fundamental right to choose or refuse to have an abortion, except as specifically permitted by the Reproductive Privacy Act; and
- (4) the state and its municipal corporations shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services or information.

The term "state" is defined in the Act to include municipal corporations such as public hospital districts (RCW 9.02.170).

The legal obligations of public hospital districts in WA State, with respect to the provision of abortion, family planning and reproductive health services are as follows:

If a public hospital district provides, directly or by contract, maternity care benefits, services, or information to women, the public hospital district is required by state law to also provide women with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies. Therefore, a public hospital district facility that provides maternity care may not prohibit abortions from being performed in its facilities. No law or regulation requires a public hospital district to provide family planning or reproductive health services.

The Act also requires the state to provide abortion benefits, services and information that are substantially equivalent to the maternity care benefits, services and information offered by the state. The Act provides in part: If the state provides, directly or by contract, *maternity care benefits, services, or information* to women through any program administered or funded in whole or in

part by the state, the state shall also provide women otherwise eligible for any such program *with substantially equivalent benefits, services, or information* to permit them to voluntarily terminate their pregnancies.

### **PROCEDURE:**

Public hospital districts cannot perform abortions without the assistance of their medical staff and employees. The Act prohibits a public hospital district from **requiring** its medical staff or employees to participate in the performance of abortions. A public hospital district also is prohibited from requiring a physician by contract (including employment) to perform abortions. Physicians who refuse to perform abortions cannot be denied privileges nor can their medical staff privileges be adversely affected. As a result, if Newport Hospital & Health Services medical staff or employees are unwilling to perform abortion services, it may be impossible for a public hospital district to provide abortion services that are substantially equivalent to the maternity care services available at its facilities.

The only way to reconcile the above provisions is to conclude that:

Newport Hospital and Health Services is required to make its facilities available to members of its medical staff who are **willing** to perform abortions, but is not required to provide abortion services if no member of its medical staff is willing to perform abortions.

Accordingly, NHHS cannot, in its bylaws, regulations or policies, prohibit physicians from providing abortion services. However, a provision that states that no member of the medical staff of the hospital (or employee of the hospital) will be required to perform abortions would be acceptable.

In summary, Newport Hospital District may not prohibit abortions from being performed at its facilities through the adoption of hospital or medical staff bylaws, rules or regulations. NHHS provides maternity services, and makes its facilities available to physicians who are willing to perform abortions. Public hospital district medical staff and employees may refuse to assist with the abortion procedure.

In addition, Newport Hospital provides referral information for maternity services, and shall provide similar referral information for abortions. If the medical staff does not perform abortions, the patient shall be provided with information similar to a patient seeking information regarding maternity services that are not provided by the medical staff.

### Family Planning and Reproductive Services

The Act declares that it is the public policy of the state Washington that every individual has the fundamental right to choose or refuse birth control. The Act does not, however, impose an affirmative duty on the state or its municipal corporations, such as public hospital districts, to provide birth control or other family planning or reproductive