By: Bowers H.B. No. 5087

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of abortion, including abortion complication reporting and the repeal of certain laws prohibiting abortion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 171.006(a) and (b), Health and Safety Code, as added by Chapter 4 (H.B. 13), Acts of the 85th Legislature, 1st Called Session, 2017, are amended to read as follows:

(a) In this section, "abortion complication" [~~or "adverse event"~~] means any harmful event or adverse outcome with respect to a patient related to an abortion that is performed [~~or induced~~] on the patient and that is diagnosed or treated by a health care practitioner or at a health care facility and includes:

(1) shock;

(2) uterine perforation;

(3) cervical laceration;

(4) hemorrhage;

(5) aspiration or allergic response;

(6) infection;

(7) sepsis;

(8) death of the patient;

(9) incomplete abortion;

(10) damage to the uterus; or

(11) an infant born alive after the abortion[~~;~~

[~~(12) blood clots resulting in pulmonary embolism or deep vein thrombosis;~~

[~~(13) failure to actually terminate the pregnancy;~~

[~~(14) pelvic inflammatory disease;~~

[~~(15) endometritis;~~

[~~(16) missed ectopic pregnancy;~~

[~~(17) cardiac arrest;~~

[~~(18) respiratory arrest;~~

[~~(19) renal failure;~~

[~~(20) metabolic disorder;~~

[~~(21) embolism;~~

[~~(22) coma;~~

[~~(23) placenta previa in subsequent pregnancies;~~

[~~(24) preterm delivery in subsequent pregnancies;~~

[~~(25) fluid accumulation in the abdomen;~~

[~~(26) hemolytic reaction resulting from the administration of ABO-incompatible blood or blood products;~~

[~~(27) adverse reactions to anesthesia or other drugs;~~ ~~or~~

[~~(28) any other adverse event as defined by the United States Food and Drug Administration's criteria provided by the MedWatch Reporting System~~].

(b) The reporting requirements of this section apply only to:

(1) a physician who:

(A) performs [~~or induces~~] at an abortion facility an abortion that results in an abortion complication diagnosed or

treated by that physician; or

(B) diagnoses or treats at an abortion facility an abortion complication that is the result of an abortion performed [~~or induced~~] by another physician at the facility; or

(2) a health care facility that is a hospital, abortion facility, freestanding emergency medical care facility, or health care facility that provides emergency medical care, as defined by Section 773.003.

SECTION 2. Section 171.061, Health and Safety Code, is amended by adding Subdivision (3) and amending Subdivision (8-a) to read as follows:

(3) "Final printed label" means the informational document approved by the United States Food and Drug Administration for an abortion-inducing drug that:

(A) outlines the protocol authorized by that agency and agreed to by the drug company applying for authorization of the drug by that agency; and

(B) delineates the manner in which a drug is to be used according to approval by that agency.

(8-a) "Provide" means, as used with regard to abortion-inducing drugs, any act of giving, selling, dispensing, administering, [~~transferring possession,~~] or otherwise providing or prescribing an abortion-inducing drug.

SECTION 3. Section 171.063, Health and Safety Code, is amended by amending Subsections (a), (c), and (e) and adding Subsection (b) to read as follows:

(a) A person may not knowingly provide an abortion-inducing

drug to a pregnant woman for the purpose of inducing an abortion in the pregnant woman or enabling another person to induce an abortion in the pregnant woman unless:

(1) the person who provides the abortion-inducing drug is a physician; and

(2) except as otherwise provided by Subsection (b), the provision of the abortion-inducing drug satisfies the protocol tested and authorized by the United States Food and Drug Administration as outlined in the final printed label of the abortion-inducing drug [~~this subchapter~~].

(b) A person may provide the abortion-inducing drug in the dosage amount prescribed by the clinical management guidelines defined by the American College of Obstetricians and Gynecologists Practice Bulletin as those guidelines existed on January 1, 2013.

(c) Before the physician provides an abortion-inducing drug, the physician must:

(1) examine the pregnant woman [~~in person~~]; and

(2) [~~independently verify that a pregnancy exists;~~

[~~(3)~~] document, in the woman's medical record, the gestational age and intrauterine location of the pregnancy [~~to determine whether an ectopic pregnancy exists;~~

[~~(4) determine the pregnant woman's blood type, and for a woman who is Rh negative, offer to administer Rh immunoglobulin (RhoGAM) at the time the abortion-inducing drug is administered or used or the abortion is performed or induced to prevent Rh incompatibility, complications, or miscarriage in future pregnancies;~~

[~~(5) document whether the pregnant woman received treatment for Rh negativity, as diagnosed by the most accurate standard of medical care; and~~

[~~(6) ensure the physician does not provide an abortion-inducing drug for a pregnant woman whose pregnancy is more than 49 days of gestational age~~].

(e) A physician who provides the abortion-inducing drug, or the physician's agent, must schedule a follow-up visit for the woman to occur not later than the 14th day after the administration [~~earliest date on which the abortion-inducing drug is administered~~] or use of the abortion-inducing drug [~~used or the abortion is performed or induced~~]. At the follow-up visit, the physician must:

(1) confirm that the woman's pregnancy is completely terminated; and

(2) assess any continued blood loss.

SECTION 4. Section 171.206(b), Health and Safety Code, is amended to read as follows:

(b) This subchapter may not be construed to:

(1) authorize the initiation of a cause of action against or the prosecution of a woman on whom an abortion is performed or induced or attempted to be performed or induced in violation of this subchapter;

(2) wholly or partly repeal, either expressly or by implication, any other statute that regulates or prohibits abortion[~~, including Chapter 6-1/2, Title 71, Revised Statutes~~]; or

(3) restrict a political subdivision from regulating or prohibiting abortion in a manner that is at least as stringent as

the laws of this state.

SECTION 5. Section 171.207(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) may not be construed to:

(1) legalize the conduct prohibited by this subchapter [~~or by Chapter 6-1/2, Title 71, Revised Statutes~~];

(2) limit in any way or affect the availability of a remedy established by Section 171.208; or

(3) limit the enforceability of any other laws that regulate or prohibit abortion.

SECTION 6. The following provisions are repealed:

(1) Chapter 170A, Health and Safety Code;

(2) Section 171.061(2-a), Health and Safety Code;

(3) Section 171.063(b-1), Health and Safety Code;

(4) Section 171.0631, Health and Safety Code;

(5) Section 171.0632, Health and Safety Code;

(6) Section 171.065, Health and Safety Code;

(7) Section 171.066, Health and Safety Code; and

(8) Chapter 6-1/2, Title 71, Revised Statutes.

SECTION 7. This Act takes effect September 1, 2023.