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S.B. No. 31

A BILL TO BE ENTITLED

AN ACT

relating to exceptions to otherwise prohibited abortions based on a physician's reasonable medical judgment.

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

SECTION 1. This Act may be cited as the Life of the Mother Act.

SECTION 2. Amend Section 74.551, Civil Practice and Remedies Code, to read as follows:

Sec. 74.551. APPLICATION. ~~[An action to which Section 74.552 applies]~~ A civil action brought against a physician or health care provider for a violation of a provision of Chapter 170, 170A, or 171, Health and Safety Code, subject to an exception provided by the chapter alleged to have been violated or other law, is a health care liability claim [for purposes of this chapter] and is subject to the same requirements as any other health care liability claim. This section does not affect a health care liability claim based on any other ground than a violation of Chapters 170, 170A, or 171, Health and Safety Code.

SECTION 3. Section 170A.002, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (c-1) and (c-2) to read as follows:

(b) ~~[The prohibition under]~~ It is an exception to the application of Subsection (a) that [does not apply if]:

(1) the person performing, inducing, or attempting the

1 abortion is a licensed physician; and

2 (2) in the exercise of reasonable medical judgment,
3 the pregnant female on whom the abortion is performed, induced, or
4 attempted has a life-threatening physical condition aggravated by,
5 caused by, or arising from a pregnancy that places the female at
6 risk of death or poses a serious risk of substantial impairment of a
7 major bodily function unless the abortion is performed or induced[+
8 ~~and~~

9 ~~[(3) the person performs, induces, or attempts the~~
10 ~~abortion in a manner that, in the exercise of reasonable medical~~
11 ~~judgment, provides the best opportunity for the unborn child to~~
12 ~~survive unless, in the reasonable medical judgment, that manner~~
13 ~~would create.~~

14 ~~[(A) a greater risk of the pregnant female's~~
15 ~~death; or~~

16 ~~[(B) a serious risk of substantial impairment of~~
17 ~~a major bodily function of the pregnant female].~~

18 (c-1) For purposes of Subsection (b)(2), if a pregnant woman
19 has a life-threatening physical condition described by Subsection
20 (b)(2), a physician may address a risk described by Subsection
21 (b)(2) before the pregnant female suffers any effects of the risk.
22 Subsection (b)(2) does not require that, before the physician may
23 act:

24 (1) a risk described by Subsection (b)(2) be imminent;

25 (2) the pregnant female first suffer physical
26 impairment; or

27 (3) the physical condition has caused damage to the

pregnant female.

(c-2) For the purposes of Subsection (b)(2), "life-threatening" means capable of causing death or potentially fatal. A life-threatening physical condition is not necessarily one actively injuring the patient.

SECTION 4. Chapter 170A, Health and Safety Code, is amended by adding Sections 170A.0021, 170A.0022, and 170A.0023 to read as follows:

Sec. 170A.0021. TREATMENT AFFECTING UNBORN CHILD; EXCEPTION. (a) Notwithstanding any other law, a physician who treats a condition described by Subsection 170A.002(b)(2) shall do so in a manner that, in the exercise of reasonable medical judgment, provides the best opportunity for survival of an unborn child.

(b) It is an exception to the application of Subsection (a) that, in a physician's reasonable medical judgment, the manner of treatment required by that subsection would create a greater risk of:

(1) the pregnant female's death; or
(2) substantial impairment of a major bodily function of the pregnant female.

(c) This chapter does not require a physician to delay, alter, or withhold medical treatment provided to a pregnant female if doing so would create a greater risk of:

(1) the pregnant female's death; or
(2) substantial impairment of a major bodily function of the pregnant female.

(d) Nothing in Subsection (c) authorizes the performance of

an abortion that is prohibited by law.

Sec. 170A.0022. REASONABLE MEDICAL JUDGMENT. Reasonable medical judgment in providing medical treatment to a pregnant female includes removing:

(1) an ectopic pregnancy as defined by Section 245.002(4-a); and

(2) a dead, unborn child whose death was caused by spontaneous abortion.

Sec. 170A.0023. ACCIDENTAL OR UNINTENTIONAL DEATH. (a) This section applies to any law that provides an exception to an otherwise prohibited abortion based on a condition described by Section 170A.002(b)(2).

(b) It is an exception to the application of each law described by Subsection (a) that the death or injury of an unborn child resulted from treatment provided to a pregnant female based on a physician's reasonable medical judgment if the death of or injury to the unborn child was accidental or unintentional.

SECTION 5. Section 171.002(3), Health and Safety Code, is amended to read as follows:

(3) "Medical emergency" means a condition described by Section 170A.002(b)(2) ~~[means a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed]~~.

SECTION 6. Sections 171.046(a) and (b), Health and Safety Code, are amended to read as follows:

1 (a) The prohibitions and requirements under Sections
2 171.043, 171.044, and 171.045(b) do not apply to an abortion
3 performed if ~~[there exists a condition that]~~, in the physician's
4 reasonable medical judgment, the abortion is necessary due to a
5 medical emergency and ~~[so complicates the medical condition of the~~
6 ~~woman that, to avert the woman's death or a serious risk of~~
7 ~~substantial and irreversible physical impairment of a major bodily~~
8 ~~function, other than a psychological condition, it]~~ necessitates,
9 as applicable:

10 (1) the immediate abortion of her pregnancy without the
11 delay necessary to determine the probable post-fertilization age of
12 the unborn child;

13 (2) the abortion of her pregnancy even though the
14 post-fertilization age of the unborn child is 20 or more weeks; or

15 (3) the use of a method of abortion other than a method
16 described by Section 171.045(b).

17 (b) A physician may not take an action authorized under
18 Subsection (a) if the medical emergency ~~[risk of death or a~~
19 ~~substantial and irreversible physical impairment of a major bodily~~
20 ~~function]~~ arises from a claim or diagnosis that the woman will
21 engage in conduct that may result in her death or in substantial and
22 irreversible physical impairment of a major bodily function.

23 SECTION 7. Section 171.063(c), Health and Safety Code, is
24 amended to read as follows:

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

27 (1) examine the pregnant woman in person;

1 (2) independently verify that a pregnancy exists;

2 (3) document, in the woman's medical record, the
3 gestational age and [~~intrauterine~~] location of the pregnancy to
4 determine whether an ectopic pregnancy exists as defined by Section
5 245.002(4-a);

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

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

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

18 SECTION 8. Subchapter H, Chapter 171, Health and Safety
19 Code, is amended by adding Section 171.2011 to read as follows:

20 Sec. 171.2011. APPLICABILITY. (a) This subchapter
21 applies only to an abortion that is otherwise prohibited by law and
22 that is not subject to an exception provided by law.

23 (b) The following activities do not constitute aiding or
24 abetting under this subchapter:

25 (1) providing services by a physician or health care
26 provider to a treating physician, or communication between a
27 physician or health care provider and a treating physician, for the

purposes of arriving at a reasonable medical judgment as required by an exception to an otherwise prohibited abortion;

(2) communicating between a physician or health care provider and a patient, or providing services by a physician or health care provider to a patient, for the purpose of arriving at reasonable medical judgment as required by an exception to an otherwise prohibited abortion;

(3) communicating between an attorney and a physician or health care provider related to an exception to an otherwise prohibited abortion;

(4) communicating between a treating physician and any other person or providing services to a treating physician or patient relating to performing, inducing, or attempting an abortion for which the treating physician has determined that, in reasonable medical judgment, an exception to an otherwise prohibited abortion is applicable; and

(5) providing products to a patient or treating physician relating to performing, inducing, or attempting an abortion for which the treating physician has determined that, in reasonable medical judgment, an exception to an otherwise prohibited abortion is applicable.

SECTION 9. Amend Section 245.002(4-a), Health and Safety Code, to read as follows:

(4-a) "Ectopic pregnancy" means the implantation of a fertilized egg or embryo:

(A) outside of the uterus; or

(B) in an abnormal location in the uterus, or in a

1 scarred portion of the uterus, causing the pregnancy to be
2 non-viable.

3 SECTION 10. Amend Section 245.016, Health and Safety Code,
4 to read as follows:

5 Sec. 245.016. ABORTION IN UNLICENSED ABORTION FACILITY TO
6 PREVENT DEATH OR SERIOUS IMPAIRMENT. It is an exception to the
7 application of Section 245.014 that the abortion was performed in
8 an unlicensed abortion facility due to a medical emergency
9 described by Section 170A.002(b)(2) [This chapter does not remove
10 the responsibility or limit the ability of a physician to perform an
11 abortion in an unlicensed abortion facility if, at the commencement
12 of the abortion, the physician reasonably believes that the
13 abortion is necessary to prevent the death of the patient or to
14 prevent serious impairment of the patient's physical health]. In
15 this section, the term "unlicensed abortion facility" does not
16 include an individual or entity to which funds appropriated by the
17 legislature in the general appropriations act are prohibited from
18 being distributed.

19 SECTION 11. Amend Section 164.052, Occupations Code, by
20 adding a new Subsection (d) to read as follows:

21 (d) This section may not be construed to prohibit, and the
22 board may not take action against a physician regarding, the
23 performance of an abortion in response to a medical emergency
24 described by Section 170A.002(b)(2), Health and Safety Code.

25 SECTION 12. Amend Section 164.055, Occupations Code, by
26 amending Subsection (c) to read as follows:

27 (c) Notwithstanding Subsection (a), the board may not take

disciplinary action against a physician who exercised reasonable medical judgment in providing medical treatment to a pregnant woman as described by Section ~~[74.552, Civil Practice and Remedies Code]~~ 170A.002, Health and Safety Code.

SECTION 13. Amend Section 165.152, Occupations Code, by adding a new Subsection (e) to read as follows:

(e) It is an exception to the application of Subsection (a) if the person is a physician who performs, induces, or attempts an abortion due to a medical emergency described by Section 170A.002(b)(2), Health and Safety Code.

SECTION 14. Article 4512.6, Chapter 6-1/2, Title 71, Vernon's Civil Statutes, is amended to read as follows:

Art. 4512.6. ~~[BY]~~ EXCEPTION FOR MEDICAL EMERGENCY ~~[ADVICE]~~. ~~[Nothing in this chapter applies to]~~ (a) It is an exception to the application of this chapter that an abortion is procured, performed, or attempted due to a medical emergency ~~[by medical advice for the purpose of saving the life of the mother]~~.

(b) In this article, "medical emergency" means a condition described by Section 170A.002(b)(2), Health and Safety Code.

SECTION 15. The exceptions to otherwise prohibited abortions described by this Act:

(1) shall be construed as consistent with the opinion of the Texas Supreme Court in *In re State*, 682 S.W.3d 890 (Tex. 2023), including with respect to providing that any threat posed by a female's pregnancy to her life or major bodily functions need not be imminent or irreversible; and

(2) shall be construed as consistent with the opinion

of the Texas Supreme Court in *State v. Zurawski*, 690 S.W.3d 644 (Tex. 2024), including with respect to the state's burden of proof in any enforcement action.

SECTION 16. (a) Notwithstanding any other law, the amendment set forth in Section 14 of this Act to Article 4512.6, Chapter 6-1/2, Title 71, Vernon's Civil Statutes, shall not be construed to:

(1) affirm or reject the validity or efficacy of any provision within Chapter 6-1/2, Title 71, Vernon's Civil Statutes;

(2) affirm or reject that any provision within Chapter 6-1/2, Title 71, Vernon's Civil Statutes, has been revived or remains or has become good law; or

(3) moot any judicial proceedings concerning the validity or efficacy of any provision within Chapter 6-1/2, Title 71, Vernon's Civil Statutes.

(b) The Legislature makes the amendment set forth in Section 14 of this Act solely to clarify statutory text and to ensure medical care may be provided to a pregnant woman in a medical emergency as described in Section 170A.002(b)(2), Health and Safety Code, as amended by this Act, without prejudice to, or resolution of, any question concerning any provision within Chapter 6-1/2, Title 71, Vernon's Civil Statutes.

SECTION 17. The following statutes are repealed:

(1) Section 74.552, Civil Practice and Remedies Code;

(2) Section 170A.002(d), Health and Safety Code; and

(3) Section 9.35, Penal Code.

SECTION 18. (a) To increase the understanding of the legal

1 profession regarding the laws regulating abortion following the
2 changes in law made by this Act, the State Bar of Texas shall
3 develop, or solicit the development of, and offer to attorneys
4 licensed in this state a comprehensive program of continuing legal
5 education regarding the regulation of abortion in this state, with
6 a focus on the exceptions to otherwise prohibited abortions. The
7 program shall include legal education regarding:

8 (1) statutory terminology applicable to the definition
9 and regulation of abortion;

10 (2) prohibited abortions and prohibited medical
11 techniques related to the performance of abortions;

12 (3) state law establishing statutory exceptions to
13 otherwise prohibited abortions;

14 (4) the civil and criminal implications of abortion
15 regulation in this state and the implications of statutory
16 exceptions to otherwise prohibited abortions;

17 (5) the definition of "medical emergency" as defined by
18 Section [170A.002](#)(b)(2), Health and Safety Code;

19 (6) the responsibility of a physician to exercise
20 reasonable medical judgment in determining whether a condition or
21 conditions exist allowing the performance of an abortion during a
22 medical emergency; and

23 (7) the circumstances under which a physician is
24 required under Section [170A.0021](#), Health and Safety Code, as added
25 by this Act, to treat a pregnant female who experiences such
26 conditions in a manner that maximizes an unborn child's opportunity
27 to survive if doing so does not increase the threat to the mother

1 presented by those conditions.

2 (b) The program required by Subsection (a) shall be:

3 (1) developed in cooperation with the Health Law
4 Section of the State Bar of Texas, physician and health care
5 provider organizations, and other non-State Bar of Texas
6 stakeholders with a demonstrated interest and expertise in the
7 required subject matter; and

8 (2) promoted by communications made by the State Bar to
9 all attorneys in this state, organizations representing physicians
10 and health care providers whose members treat pregnant women, and
11 health care institutions as defined by Section 74.001, Civil
12 Practice and Remedies Code.

13 (c) The course of instruction required by Subsection (a)
14 must be offered at no cost to attorneys licensed in this state and
15 shall be offered on the Internet provided through the State Bar in
16 addition to any other method approved by the State Bar.

17 (d) The program required by Subsection (a) shall be offered
18 no later than January 1, 2026.

19 SECTION 19. (a)(1) No later than January 1, 2026, the Texas
20 Medical Board shall make available one or more approved courses
21 regarding the laws relating to pregnancy-related medical
22 emergencies as the term "medical emergency" is used in Subtitle H,
23 Title 2, Health and Safety Code, as amended by this Act.

24 (2) The board may solicit the development of a course
25 required by Subsection (1) by organizations representing
26 physicians, institutions of higher education with medical schools,
27 or other providers of continuing education to physicians acceptable

1 to the board.

2 (3) After approval of a continuing education course
3 required by this subsection, the board shall inform all licensed
4 physicians in this state of the availability of the course and
5 request organizations representing physicians in general and
6 physicians who practice in specialties that treat pregnant women to
7 make the availability of the course known to their members.

8 (b) Completion of a course described by Subsection (a) shall
9 be credited to the requirements for continuing medical education
10 enforced by the Texas Medical Board.

11 (c) A course approved under Subsection (a) shall address:

12 (1) what does and does not constitute an abortion,
13 including exclusions from that term for ectopic pregnancy and
14 spontaneous abortion;

15 (2) the laws prohibiting abortion and any procedures
16 prohibited by law for performing an abortion;

17 (3) the statutory exceptions to laws prohibiting
18 abortion with an emphasis on exceptions based on a medical
19 emergency as the term "medical emergency" is used in Subtitle H,
20 Title 2, Health and Safety Code, as amended by this Act; and

21 (4) the laws regarding reasonable medical judgment as
22 used in connection with the medical emergency exceptions to laws
23 prohibiting abortions.

24 (d) Continuing medical education described in whole or in
25 part by Subsection (c) does not constitute aiding or abetting as
26 those terms are used in Subchapter H, Chapter 171, Health and Safety
27 Code, as amended by this Act.

1 (e)(1) A physician licensed to practice medicine under
2 Subtitle B, Title 3, Occupations Code, who provides obstetric care
3 shall complete before initial licensure in this state or before the
4 physician's license renewal after January 1, 2026, a course
5 described by Subsection (a) that equals at least one hour of
6 continuing medical education. This is a one-time requirement.

7 (2) The license of a physician described by Subdivision
8 (1) shall not be initially issued or renewed if the physician has
9 not complied with that subdivision.

10 (3) The Texas Medical Board shall adopt rules to
11 implement this subsection.

12 (f) The board shall make available at least one course
13 required by this section at no cost to physicians licensed in this
14 state and include on its Internet website a list of courses of
15 continuing medical education approved under Subsection (a).

16 (g) Nothing in Subsections (a) through (f):

17 (1) creates a cause of action or a standard of care,
18 obligation, or duty that provides the basis for a cause of action;
19 or

20 (2) affects a health care liability claim, as defined
21 by Section 74.001(13), Civil Practice and Remedies Code, based on
22 any ground other than a violation of Chapter 170, 170A, or 171,
23 Health and Safety Code.

24 SECTION 20. (a) A chapter of a civil statute any part of
25 which is amended by this Act shall be construed as consistent with
26 the decisions of the courts of this state cited by Subsection (b)
27 that a pregnant female who obtains, attempts to obtain, procures,

1 or attempts to procure an abortion for herself is not guilty as a
2 party, principal, perpetrator, or accomplice to an offense
3 prohibiting such conduct.

4 (b) *Watson v. State*, 9 Tex. Ct. App 237, 244-245 (1880);
5 *Willingham v. State*, 25 S.W. 424 (Tex. Crim. App. 1894); *Gray v.*
6 *State*, 178 S.W. 337, 341 (Tex. Crim. App. 1915); *Smith v. State*, 237
7 S.W. 265, 266 (Tex. Crim. App. 1922); *Easter v. State*, 536 S.W.2d
8 223, 229 (Tex. Crim. App. 1976); and *Robinson v. State*, 815 S.W.2d
9 361, 364 (Tex. App.-Austin 1991).

10 SECTION 21. Every provision in this Act and every
11 application of a provision in this Act is severable from any other.
12 If any provision or application of any provision in this Act to any
13 person, group of persons, or circumstance is held by a court to be
14 invalid, the invalidity does not affect the other provisions or
15 applications of this Act.

16 SECTION 22. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2025.