

By: Villarreal

H.B. No. 1354

A BILL TO BE ENTITLED

AN ACT

1
2 relating to preventative health care services and educational
3 programs to reduce unintended pregnancies, the need for abortion
4 and infection rates of sexually-transmitted diseases.

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

6 SECTION 1. SHORT TITLE. This Act may be cited as the "Texas
7 Prevention First Act of 2005."

8 SECTION 2. FUNDING FOR SERVICES TO REDUCE THE NUMBER OF
9 UNINTENDED PREGNANCIES AND ABORTIONS AND LOWER RATES OF SEXUALLY
10 TRANSMITTED DISEASES (INCLUDING HIV). The Legislative Budget Board
11 and the Office of the Governor are directed to take all necessary
12 steps to maximize the amount of money available through all Federal
13 and private grant programs to fund state services that provide
14 family planning and reproductive health services in order to reduce
15 the number of unintended pregnancies, the number of abortions and
16 lower the infection rates for sexually transmitted diseases,
17 including HIV.

18 SECTION 3. EQUITY IN PRESCRIPTION INSURANCE AND
19 CONTRACEPTIVE COVERAGE. Section 4, Article 3.80, Insurance Code,
20 is amended by adding a new Subsection (c) to read as follows:

21 (c) Notwithstanding any other law, any standard health
22 benefit plan must include coverage for contraceptives, if the plan
23 provides benefits for other prescription drugs, as required by
24 Article 21.52L of this code as added by Section 1, Chapter 1106,

1 Acts of the 77th Legislature, Regular Session, 2001.

2 SECTION 4. EMERGENCY CONTRACEPTION EDUCATION AND
3 INFORMATION PROGRAMS. (a) As used in this section:

4 (1) "department" means the Department of State Health
5 Services;

6 (2) "emergency contraception" has the meaning
7 assigned by Section 311.051, Health and Safety Code.

8 (b) The department shall develop and disseminate to the
9 public, directly or through arrangements with nonprofit
10 organizations, consumer groups, institutions of higher education,
11 Federal, State, or local agencies, clinics and the media,
12 information on emergency contraception.

13 (c) The information disseminated under Subsection (b) shall
14 include, at a minimum, a description of emergency contraception,
15 and an explanation of the use, safety, efficacy, and availability
16 of such contraception.

17 (d) The department shall develop and disseminate to health
18 care providers information on emergency contraception.

19 (e) The information disseminated under Subsection (d) shall
20 include, at a minimum:

21 (1) information describing the use, safety, efficacy
22 and availability of emergency contraception;

23 (2) a recommendation regarding the use of such
24 contraception in appropriate cases; and

25 (3) information explaining how to obtain copies of the
26 information developed under Subdivision (3), for distribution to
27 the patients of the providers.

1 SECTION 5. EMERGENCY CONTRACEPTION DRUG THERAPY BY
2 PHARMACISTS. (a) Section 157.101(a), Occupations Code, is amended
3 to read as follows:

4 (a) In this subchapter [~~section~~], "pharmacist" has the
5 meaning assigned by Section 551.003.

6 (b) Subchapter C, Chapter 157, Occupations Code, is amended
7 by adding Section 157.102 to read as follows:

8 Sec. 157.102. EMERGENCY CONTRACEPTION DRUG THERAPY. A
9 pharmacist may initiate emergency contraception drug therapy in
10 accordance with Sections 157.101 and 562.056.

11 (c) Subchapter B, Chapter 562, Occupations Code, is amended
12 by adding Sections 562.056 and 562.057 to read as follows:

13 Sec. 562.056. EMERGENCY CONTRACEPTION DRUG THERAPY. (a)
14 In this section and Section 562.057:

15 (1) "Initiate" means to provide emergency
16 contraception on patient request in accordance with a drug therapy
17 management agreement.

18 (2) "Patient" means an individual to whom
19 contraception drug therapy is dispensed and distributed as provided
20 by this section.

21 (3) "Physician" has the meaning assigned by Section
22 151.002.

23 (b) The board shall adopt rules necessary to administer this
24 section and Section 562.057.

25 (c) Subject to Section 562.057, a pharmacist may exercise
26 the pharmacist's professional judgment to initiate and distribute
27 emergency contraception drug therapy to a patient in accordance

1 with:

2 (1) this section and board rules; and

3 (2) standardized procedures and protocols developed
4 by the pharmacist and a physician with whom the pharmacist has
5 entered into an agreement required by Subsection (d).

6 (d) A pharmacist may not initiate and distribute emergency
7 contraception drug therapy to a patient in accordance with drug
8 therapy management agreement unless the pharmacist enters into an
9 agreement with at least one physician for purposes of the
10 initiation and distribution of the drug therapy. The requirement
11 of Section 157.101(c)(2) does not apply to drug therapy initiated
12 and distributed under this section.

13 (e) For each emergency contraception drug therapy initiated
14 and distributed, a pharmacist shall:

15 (1) provide the patient with a standardized fact sheet
16 developed by the board in accordance with Subsection (f);

17 (2) require the patient to complete a form requesting
18 information on possible contraindications to the drug therapy; and

19 (3) inform the physician with whom the pharmacist has
20 an agreement of the initiation and distribution of the emergency
21 contraception drug therapy in accordance with drug therapy
22 management agreement.

23 (f) In consultation with the Texas State Board of Medical
24 Examiners, the Department of State Health Services, and the
25 American College of Obstetricians and Gynecologists, the board
26 shall develop a standardized fact sheet that includes:

27 (1) the indications for use of the drug therapy;

1 (2) the appropriate method for using the drug therapy;
2 and
3 (3) the necessity and importance of medical follow-up.

4 (g) Subsection (f) does not preclude the use of existing
5 publications developed by nationally recognized medical
6 organizations.

7 Sec. 562.057. TRAINING PROGRAM ON EMERGENCY CONTRACEPTION
8 DRUG THERAPY INITIATION AND DISTRIBUTION. (a) A pharmacist may not
9 initiate or distribute emergency contraception drug therapy unless
10 the pharmacist has successfully completed a training program on
11 emergency contraception drug therapy initiation and distribution.

12 (b) The board and the Texas State Board of Medical Examiners
13 must develop and approve the training program.

14 (c) The training program must address:

15 (1) the relevant medical circumstances and
16 contraindications that make emergency contraception appropriate
17 for a patient;

18 (2) appropriate methods of conducting sensitive
19 communications related to providing the therapy;

20 (3) quality assurance;

21 (4) the availability of additional services and
22 procedures for making referrals to the services; and

23 (5) the documentation required by the board.

24 (d) The program provider shall issue a certificate of
25 completion to the pharmacist on completion of the training program.

26 (e) A pharmacist who initiates and distributes emergency
27 contraception drug therapy may display the certificate of

1 completion as provided by board rules.

2 (d) Section 483.042, Health and Safety Code, is amended by
3 adding Subsection (g) to read as follows:

4 (g) It is an exception to the application of Subsection (a)
5 that a dangerous drug was a contraceptive and was delivered by a
6 pharmacist in accordance with Section 562.056, Occupations Code.

7 SECTION 6. EMERGENCY CONTRACEPTION FOR VICTIMS OF SEXUAL
8 ASSAULT. Chapter 311, Health & Safety Code, is amended by adding
9 Subchapter E to read as follows:

10 SUBCHAPTER E. EMERGENCY CONTRACEPTION

11 FOR SEXUAL ASSAULT VICTIMS

12 Sec. 311.051. SHORT TITLE. This chapter may be cited as the
13 "Compassionate Assistance for Rape Emergencies Act."

14 Sec. 311.051. DEFINITIONS. As used in this chapter:

15 (1) "emergency contraception" means a drug, drug
16 regimen, or device that:

17 (A) is used post-coitally;

18 (B) prevents pregnancy by delaying ovulation,
19 preventing fertilization of an egg, or preventing implantation of
20 an egg in a uterus; and

21 (C) is approved by the Food and Drug
22 Administration.

23 (2) "hospital" has the meaning assigned by Section
24 241.003(7);

25 (3) "sexual assault" has the meaning assigned by
26 22.001, Penal Code.

27 Sec. 311.052. SCOPE OF DUTY. (a) The duties imposed by

1 this chapter on a hospital is owed by the hospital to any woman who
2 presents at the hospital and:

3 (1) states that she is a victim of sexual assault, or
4 is accompanied by someone who states she is a victim of sexual
5 assault; or

6 (2) whom hospital personnel have reason to believe is
7 a victim of sexual assault.

8 Sec. 311.053. DUTY TO SURVIVORS OF SEXUAL ASSAULT TO
9 PROVIDE INFORMATION AND EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

10 (a) When a woman covered by Section 311.052 presents at the
11 hospital, the hospital must promptly:

12 (1) provide medically and factually accurate and
13 unbiased written and oral information about emergency
14 contraception, including information explaining that:

15 (A) emergency contraception does not cause an
16 abortion; and

17 (B) emergency contraception is effective in most
18 cases in preventing pregnancy after unprotected sex;

19 (2) offer emergency contraception to the woman;

20 (3) provide emergency contraception to her on her
21 request.

22 (b) The information required under Subsection (a) must be
23 readily comprehensible, written in clear and concise language, and
24 meet any conditions regarding the provision of the information in
25 languages other than English as the department by rule may
26 establish.

27 (c) The duties imposed by this chapter may not be avoided or

1 services denied because of the inability of the woman or her family
2 to pay for the services.

3 SECTION 7. TEENAGE PREGNANCY PREVENTION GRANT PROGRAM.
4 Subtitle H, Title 2, Health and Safety Code, is amended by adding
5 Chapter 172 to read as follow.

6 CHAPTER 172. TEENAGE PREGNANCY PREVENTION GRANTS

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 172.001. SHORT TITLE. This chapter may be cited as the
9 "Preventing Teen Pregnancy Act."

10 Sec. 172.002. DEFINITION. In this chapter, "rigorous
11 scientific research" means research based on a program evaluation
12 that:

13 (1) measured impact on sexual or contraceptive
14 behavior, pregnancy or childbearing.

15 (2) employed an experimental or quasi-experimental
16 design with well-constructed and appropriate comparison groups.

17 (3) had a sample size large enough (at least 100 in the
18 combined treatment and control group) and a follow-up interval long
19 enough (at least six months) to draw valid conclusions about
20 impact.

21 Sec. 172.003. GRANT PROGRAM. The department shall
22 establish a program to award grants to public and private entities
23 to establish or expand teenage pregnancy prevention programs.

24 Sec. 172.003. ELIGIBILITY. (c) The board by rule shall
25 establish eligibility criteria for awarding the grants. The rules
26 must require the department to grant priority to those applicants
27 proposing to serve:

1 (1) communities or populations in which:

2 (A) teenage pregnancy or birth rates are higher
3 than the corresponding State average; or

4 (B) teenage pregnancy or birth rates are
5 increasing;

6 (2) underserved or at-risk populations such as young
7 males or immigrant youths; or

8 (3) communities or populations located in areas where
9 the applicant may take advantage of other available resources and
10 coordinate with other programs that serve youth, such as workforce
11 development and after school programs

12 (b) A new or existing teenage pregnancy prevention program
13 is eligible for a grant under this chapter only if the program:

14 (1) replicates or substantially incorporates the
15 elements of one or more teenage pregnancy prevention programs that
16 have been proven on the basis of rigorous scientific research to:

17 (A) delay sexual intercourse or sexual activity;

18 (B) increase condom or contraceptive use without
19 increasing sexual activity; or

20 (C) reduce teenage pregnancy; and

21 (2) incorporates one or more of the following
22 strategies for preventing teenage pregnancy:

23 (A) encouraging teenagers to delay sexual
24 activity;

25 (B) sex and HIV education;

26 (C) interventions for sexually active teenagers;

27 (D) preventive health services;

1 (E) youth development programs;

2 (F) service learning programs; or

3 (G) outreach or media programs.

4 (c) A new or existing teenage pregnancy prevention program
5 is not eligible for a grant under this chapter if the program is an
6 abstinence-only education program. Abstinence-only education
7 programs that receive Federal funds through the Maternal and Child
8 Health Block Grant, the Administration for Children and Families,
9 the Adolescent Family Life Program, and any other program that uses
10 the definition of abstinence education under Section 510(b), Social
11 Security Act, are ineligible for the grant program established by
12 this chapter.

13 (d) Programs receiving funds under this chapter that choose
14 to provide information on HIV/AIDS or contraception or both must
15 provide information that is complete and medically accurate.

16 (e) An applicant for a grant under this chapter is not
17 precluded from priority or other consideration on the grounds that
18 the applicant is:

19 (1) a statewide or local not-for-profit coalition
20 working to prevent teenage pregnancy;

21 (2) a State, local, or tribal agency;

22 (3) a public or private school;

23 (4) an entity that provides after-school programs; or

24 (5) a community or faith-based group.

25 (f) The department shall approve grants according to rules
26 adopted by the board. Except as provided by this chapter, a grant
27 awarded under this chapter is governed by Chapter 783, Government

1 Code, and rules adopted under that chapter.

2 Sec. 172.004. MATCHING FUNDS AND SUPPLEMENTATION OF FUNDS.

3 (a) The department shall not award a grant to an applicant for a
4 program under this chapter unless the applicant demonstrates that
5 it will pay, from funds derived from non-Federal sources, at least
6 25 percent of the cost of the program.

7 (b) The applicant's share of the cost of a program may be
8 provided in the form of cash or in-kind services.

9 (c) An entity that receives funds as a grant under this
10 chapter shall use the funds to supplement, and not supplant, funds
11 that would otherwise be available to the entity for teenage
12 pregnancy prevention.

13 Sec. 172.005. GRANT PROGRAM EVALUATION. (a) The
14 Department shall:

15 (1) conduct or provide for a rigorous evaluation of at
16 least 10 percent of programs for which a grant is awarded under this
17 section;

18 (2) collect basic data on each program for which a
19 grant is awarded under this section; and

20 (3) upon completion of the evaluations referred to in
21 Subdivision (1), submit to the Legislature a report that includes a
22 detailed statement on the effectiveness of grants under this
23 section.

24 (b) Each recipient of a grant under this chapter shall
25 provide to the department all information that may be required for
26 an evaluation under Subsection (a) and shall otherwise cooperate
27 with the department's data collection efforts.

1 SECTION 8. ACCURACY OF CONTRACEPTION INFORMATION IN HEALTH
2 EDUCATION INSTRUCTION. (a) This Section may be cited as the "Truth
3 in Contraception Act."

4 (b) Section 28.004(e), Education Code is amended to read as
5 follows:

6 (e) Any course materials and instruction relating to
7 human sexuality, sexually transmitted diseases, or human
8 immunodeficiency virus or acquired immune deficiency syndrome
9 shall be selected by the board of trustees with the advice of the
10 local school health advisory council and must:

11 (1) present abstinence from sexual activity as the
12 preferred choice of behavior in relationship to all sexual activity
13 for unmarried persons of school age;

14 (2) devote more attention to abstinence from sexual
15 activity than to any other behavior;

16 (3) emphasize that abstinence from sexual activity, if
17 used consistently and correctly, is the only method that is 100
18 percent effective in preventing pregnancy, sexually transmitted
19 diseases, infection with human immunodeficiency virus or acquired
20 immune deficiency syndrome, and the emotional trauma associated
21 with adolescent sexual activity;

22 (4) direct adolescents to a standard of behavior in
23 which abstinence from sexual activity before marriage is the most
24 effective way to prevent pregnancy, sexually transmitted diseases,
25 and infection with human immunodeficiency virus or acquired immune
26 deficiency syndrome; and

27 (5) teach contraception and condom use in a medically

1 accurate manner that discusses both the health benefits and [~~terms~~
2 ~~of]~~ human use reality rates (instead of theoretical laboratory
3 rates) of contraception and condom use, if instruction on
4 contraception and condoms is included in curriculum content.

5 SECTION 9. (a) Not later than January 1, 2006, the Texas
6 State Board of Pharmacy shall:

7 (1) adopt the rules necessary to administer Sections
8 562.056 and 562.057, Occupations Code, as added by this Act;

9 (2) in consultation with the Texas State Board of
10 Medical Examiners, the Department of State Health Services, and the
11 American College of Obstetricians and Gynecologists, develop the
12 standardized fact sheet required by Section 562.056, Occupations
13 Code, as added by this Act; and

14 (3) in cooperation with the Texas State Board of
15 Medical Examiners, develop the training program on emergency
16 contraception drug therapy initiation and distribution required by
17 Section 562.057, Occupations Code, as added by this Act.

18 (b) Not later than January 1, 2006, the Department of State
19 Health Services shall adopt the rules necessary to administer those
20 Sections of this Act requiring the department to adopt rules.

21 SECTION 10. (a) The change in law made by this Act to
22 Section 483.042, Health and Safety Code, applies only to an offense
23 committed on or after the effective date of this Act. For purposes
24 of this section, an offense is committed before the effective date
25 of this Act if any element of the offense occurs before that date.

26 (b) An offense committed before the effective date of this
27 Act is covered by the law in effect when the offense was committed,

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1 and the former law is continued in effect for that purpose.

2 SECTION 11. EFFECTIVE DATE. This Act takes effect

3 September 1, 2005.