

By: Farrar

H.B. No. 1658

A BILL TO BE ENTITLED

AN ACT

relating to programs and services for sexual health and the prevention of abortion.

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

SECTION 1. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0235 to read as follows:

Sec. 31.0235. TEXTBOOKS FOR HUMAN SEXUALITY INSTRUCTION.

(a) A textbook for use in human sexuality instruction may not be included as a conforming textbook under Section 31.023 unless the State Board of Education determines that the textbook includes specific, age-appropriate information concerning:

(1) all methods of contraception;

(2) teen dating violence;

(3) sexual assault;

(4) the importance of prenatal care services during pregnancy; and

(5) the importance of annual well-woman exams.

(b) The information required by this section must be included in a textbook used by students without regard to whether it is included in an edition of the textbook prepared for the teacher's use.

(c) Notwithstanding any other provision of this chapter, a school district may not use a textbook for human sexuality instruction unless the textbook conforms to the requirements of

1 this section.

2 SECTION 2. Section 28.004, Education Code, is amended by
3 adding Subsection (1) to read as follows:

4 (1) A school district that provides human sexuality
5 instruction must use a textbook that conforms to the requirements
6 of Section 31.0235.

7 SECTION 3. Subtitle G, Title 4, Health and Safety Code, is
8 amended by adding Chapter 322 to read as follows:

9 CHAPTER 322. EMERGENCY SERVICES FOR SURVIVORS
10 OF SEXUAL ASSAULT

11 Sec. 322.001. DEFINITIONS. In this chapter:

12 (1) "Department" means the Department of State Health
13 Services.

14 (2) "Health care facility" means:

15 (A) a general or special hospital as defined by
16 Section 241.003;

17 (B) an ambulatory surgical center as defined by
18 Section 243.002; and

19 (C) a facility designated as a trauma facility
20 under Chapter 773.

21 (3) "Sexual assault" means any act as described by
22 Section 22.011 or 22.021, Penal Code.

23 (4) "Sexual assault survivor" means an individual who
24 is a victim of a sexual assault, regardless of whether a report is
25 made or a conviction is obtained in the incident.

26 Sec. 322.002. MINIMUM STANDARDS FOR EMERGENCY SERVICES.

27 (a) A health care facility conducting a forensic medical

1 examination shall provide the sexual assault survivor with, if
2 indicated by the history of contact, access to:

3 (1) appropriate prophylaxis for exposure to sexually
4 transmitted infections; and

5 (2) emergency contraception prescription drugs.

6 (b) A health care facility must obtain documented consent
7 before providing treatment.

8 Sec. 322.003. INFORMATION FORM. (a) The department shall
9 develop a standard information form for sexual assault survivors
10 that must include:

11 (1) information regarding treatment of sexually
12 transmitted infections and pregnancy, including:

13 (A) generally accepted medical procedures;

14 (B) appropriate medications; and

15 (C) any contraindications of the medications
16 prescribed for treating sexually transmitted infections and
17 preventing pregnancy; and

18 (2) information regarding crime victims compensation,
19 including reimbursement information for the medical portion of the
20 examination.

21 (b) A health care facility shall use the standard form
22 developed under this section.

23 SECTION 4. Section 483.042, Health and Safety Code, is
24 amended by adding Subsection (g) to read as follows:

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

1 SECTION 5. Section 32.024(1), Human Resources Code, is
2 amended to read as follows:

3 (1) The department shall set the income eligibility cap for
4 medical assistance for pregnant women at not less than 250 percent
5 of the federal poverty guidelines, and the department shall set the
6 income eligibility cap for medical assistance for infants up to age
7 one at not less than 130 percent of the federal poverty guidelines.

8 SECTION 6. Subchapter B, Chapter 32, Human Resources Code,
9 is amended by adding Section 32.0248 to read as follows:

10 Sec. 32.0248. ELIGIBILITY OF CERTAIN ALIENS. The
11 department shall provide medical assistance in accordance with 8
12 U.S.C. Section 1612(b) to a person who:

13 (1) is pregnant;

14 (2) is a qualified alien, as defined by 8 U.S.C.
15 Sections 1641(b) and (c);

16 (3) meets the eligibility requirements of the medical
17 assistance program;

18 (4) entered the United States on or after August 22,
19 1996; and

20 (5) has resided in the United States for a period of
21 five years after the date the person entered as a qualified alien.

22 SECTION 7. Section 1369.102, Insurance Code, as effective
23 April 1, 2005, is amended to read as follows:

24 Sec. 1369.102. APPLICABILITY OF SUBCHAPTER. (a)
25 Notwithstanding any other law and except as specifically provided
26 by this subchapter, this [This] subchapter applies only to a health
27 benefit plan, including a small employer health benefit plan

1 written under Chapter 1501 or coverage provided by a health group
2 cooperative under Subchapter B of that chapter or Article 26.14A,
3 that provides benefits for medical or surgical expenses incurred as
4 a result of a health condition, accident, or sickness, including an
5 individual, group, blanket, or franchise insurance policy or
6 insurance agreement, a group hospital service contract, or an
7 individual or group evidence of coverage or similar coverage
8 document that is offered by:

9 (1) an insurance company;

10 (2) a group hospital service corporation operating
11 under Chapter 842;

12 (3) a fraternal benefit society operating under
13 Chapter 885;

14 (4) a stipulated premium company operating under
15 Chapter 884;

16 (5) a reciprocal exchange operating under Chapter 942;

17 (6) a Lloyd's plan operating under Chapter 941;

18 (7) a health maintenance organization operating under
19 Chapter 843;

20 (8) [~~(7)~~] a multiple employer welfare arrangement
21 that holds a certificate of authority under Chapter 846; or

22 (9) [~~(8)~~] an approved nonprofit health corporation
23 that holds a certificate of authority under Chapter 844.

24 (b) Notwithstanding Section 172.014, Local Government Code,
25 or any other law, this subchapter applies to health and accident
26 coverage provided by a risk pool created under Chapter 172, Local
27 Government Code.

1 (c) Notwithstanding any provision of Chapter 1551, 1575,
2 1579, or 1601 or any other law, this subchapter applies to:

3 (1) a basic coverage plan under Chapter 1551;

4 (2) a basic plan under Chapter 1575;

5 (3) a primary care coverage plan under Chapter 1579;

6 and

7 (4) basic coverage under Chapter 1601.

8 (d) Notwithstanding any other law, a standard health
9 benefit plan provided under Chapter 1507 or Article 3.80 or 20A.09N
10 of this code must provide the coverage required by this subchapter.

11 SECTION 8. Section 157.101(a), Occupations Code, is amended
12 to read as follows:

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

15 SECTION 9. Subchapter C, Chapter 157, Occupations Code, is
16 amended by adding Section 157.102 to read as follows:

17 Sec. 157.102. EMERGENCY CONTRACEPTION DRUG THERAPY. A
18 pharmacist may initiate emergency contraception drug therapy in
19 accordance with Sections 157.101 and 562.056.

20 SECTION 10. Chapter 162, Occupations Code, is amended by
21 adding Subchapter F to read as follows:

22 SUBCHAPTER F. REQUIRED COMMUNICATION

23 Sec. 162.251. DISCLOSURE OF HEALTH CARE ENTITY AFFILIATION.
24 A physician must notify a patient if the physician's affiliations
25 with a health care entity prevent the physician from providing
26 information to the patient regarding family planning, abortion, or
27 emergency contraception.

1 SECTION 11. Subchapter B, Chapter 562, Occupations Code, is
2 amended by adding Section 562.056 to read as follows:

3 Sec. 562.056. EMERGENCY CONTRACEPTION DRUG THERAPY. (a)

4 In this section:

5 (1) "Initiate" means to provide emergency
6 contraception on patient request in accordance with a standing drug
7 therapy protocol.

8 (2) "Patient" means an individual to whom
9 contraception drug therapy is dispensed and distributed as provided
10 by this section.

11 (3) "Physician" has the meaning assigned by Section
12 151.002.

13 (b) The board shall adopt rules necessary to administer this
14 section, including rules:

15 (1) establishing training requirements for emergency
16 contraception drug therapy initiation and distribution; and

17 (2) developing information to be distributed to a
18 patient about the use of emergency contraception drug therapy.

19 (c) A pharmacist may exercise the pharmacist's professional
20 judgment to initiate and distribute emergency contraception drug
21 therapy to a patient in accordance with:

22 (1) this section and board rules; and

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

26 (d) A pharmacist may not initiate and distribute emergency
27 contraception drug therapy to a patient in accordance with standing

1 drug therapy protocol unless the pharmacist enters into an
2 agreement with at least one physician for purposes of the
3 initiation and distribution of the drug therapy. The requirement
4 of Section 157.101(c)(2) does not apply to drug therapy initiated
5 and distributed under this section.

6 SECTION 12. Sections 28.004(e) and (h), Education Code, are
7 repealed.

8 SECTION 13. (a) The change in law made by Section 31.0235,
9 Education Code, as added by this Act and the change in law made by
10 this Act to Section 28.004, Education Code, apply beginning with
11 the 2005-2006 school year.

12 (b) If before implementing any provision of Section
13 32.024(1), Human Resources Code, as amended by this Act, or Section
14 32.0248, Human Resources Code, as added by this Act, a state agency
15 determines that a waiver or authorization from a federal agency is
16 necessary for implementation of that provision, the agency affected
17 by the provision shall request the waiver or authorization and may
18 delay implementing that provision until the waiver or authorization
19 is granted.

20 (c) The change in law made by this Act to Section 1369.102,
21 Insurance Code, applies only to a health benefit plan provided
22 under a coverage document that is delivered, issued for delivery,
23 or renewed on or after January 1, 2006. A health benefit plan
24 provided under a coverage document that is delivered, issued for
25 delivery, or renewed before January 1, 2006, is governed by the law
26 as it existed immediately before the effective date of this Act, and
27 that law is continued in effect for this purpose.

1 (d) Not later than January 1, 2006, the Texas State Board of
2 Pharmacy shall adopt the rules necessary to administer Section
3 562.056, Occupations Code, as added by this Act.

4 (e) The change in law made by this Act to Section 483.042,
5 Health and Safety Code, applies only to an offense committed on or
6 after the effective date of this Act. For purposes of this section,
7 an offense is committed before the effective date of this Act if any
8 element of the offense occurs before that date. An offense
9 committed before the effective date of this Act is covered by the
10 law in effect when the offense was committed, and the former law is
11 continued in effect for that purpose.

12 SECTION 14. This Act takes effect September 1, 2005.