

By: Thompson

H.B. No. 2878

A BILL TO BE ENTITLED

AN ACT

relating to alternatives to abortion organizations; imposing a civil penalty.

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

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 173 to read as follows:

CHAPTER 173. ALTERNATIVES TO ABORTION ORGANIZATIONS

Sec. 173.001. DEFINITIONS. In this chapter:

(1) "Alternatives to abortion organization" means an organization, including a pregnancy counseling organization or crisis pregnancy center, that for a fee or as a free service provides pregnancy counseling or information but does not perform an abortion or refer a female to an abortion provider. The term does not include a licensed health care provider, a hospital, or a family planning clinic that provides abortions or contraception or provides abortion or contraception referrals.

(2) "Commission" means the Health and Human Services Commission.

(3) "Health care practitioner" means a physician, midwife, physician assistant, or nurse authorized to provide health care services under Subtitle B, C, or E, Title 3, Occupations Code.

(4) "Licensed counselor" means a person licensed as a counseling or mental health professional under Chapter 501, 502, 503, or 505, Occupations Code.

1           (5) "Patient" means a woman seeking information,  
2 assistance, or other services from an alternatives to abortion  
3 organization.

4           Sec. 173.002. LICENSE. (a) An alternatives to abortion  
5 organization may be licensed under this chapter.

6           (b) An alternatives to abortion organization may not  
7 directly or indirectly receive state money or other assistance  
8 unless the organization is licensed under this chapter.

9           (c) A license issued under this chapter is not transferable  
10 or assignable.

11           Sec. 173.003. LICENSE APPLICATION AND ISSUANCE. (a) An  
12 applicant for an alternatives to abortion organization license must  
13 submit an application to the commission on a form prescribed by the  
14 commission.

15           (b) Each application must be accompanied by a nonrefundable  
16 license fee in an amount set by the commission.

17           (c) The application must contain evidence that:

18                   (1) at least one health care practitioner is on the  
19 organization's staff; or

20                   (2) at least one licensed counselor is on the  
21 organization's staff.

22           (d) The commission shall issue a license to the applicant  
23 if, after inspection and investigation, it finds that the  
24 alternatives to abortion organization meets the requirements of  
25 this chapter and the standards adopted under this chapter.

26           (e) As a condition for renewal of a license, the license  
27 holder must submit to the commission the annual license renewal

1 fee.

2 (f) Information regarding the licensing status of an  
3 alternatives to abortion organization is an open record for the  
4 purposes of Chapter 552, Government Code, and shall be made  
5 available by the commission on request.

6 Sec. 173.004. INSPECTIONS. (a) The commission may inspect  
7 a licensed alternatives to abortion organization, or an applicant  
8 for a license, at reasonable times as necessary to ensure  
9 compliance with this chapter.

10 (b) The commission shall inspect an alternatives to  
11 abortion organization before renewing the organization's license  
12 under Section 173.003(e).

13 Sec. 173.005. FEES. The commission shall set fees imposed  
14 by this chapter in amounts reasonable and necessary to defray the  
15 cost of administering this chapter.

16 Sec. 173.006. ALTERNATIVES TO ABORTION ORGANIZATION  
17 LICENSING FUND. All fees collected under this chapter shall be  
18 deposited in the state treasury to the credit of the alternatives to  
19 abortion organization licensing fund and may be appropriated only  
20 to the commission to administer and enforce this chapter.

21 Sec. 173.007. ADOPTION OF RULES. The executive  
22 commissioner of the commission shall adopt rules necessary to  
23 implement this chapter, including requirements for the issuance,  
24 renewal, denial, suspension, and revocation of a license.

25 Sec. 173.008. MINIMUM STANDARDS. (a) The rules adopted  
26 under Section 173.007 must contain minimum standards for licensed  
27 alternatives to abortion organizations to protect the health and

1 safety of a patient.

2 (b) The standards may not be more stringent than Medicare  
3 certification standards, if any, for:

4 (1) qualifications for professional and  
5 nonprofessional personnel;

6 (2) supervision of professional and nonprofessional  
7 personnel;

8 (3) sanitary and hygienic conditions within an  
9 alternatives to abortion organization;

10 (4) the equipment essential to the health and welfare  
11 of a patient;

12 (5) clinical records kept by an alternatives to  
13 abortion organization; and

14 (6) management, ownership, and control of the  
15 organization.

16 (c) This section does not authorize the commission to:

17 (1) establish the qualifications of a licensed  
18 practitioner; or

19 (2) permit a person to provide health care services  
20 who is not authorized to provide those services under other laws of  
21 this state.

22 Sec. 173.009. PRIVACY REQUIREMENTS; USE OF INFORMATION.

23 (a) An alternatives to abortion organization may not reveal a  
24 patient's name or health information or any other identifying  
25 information without the patient's written consent.

26 (b) An alternatives to abortion organization must comply  
27 with Section 181.152.

1        (c) This section applies without regard to whether the  
2 alternatives to abortion organization is licensed.

3        Sec. 173.010. DISCIPLINARY ACTION. (a) An alternatives to  
4 abortion organization that violates Section 173.009 is ineligible  
5 to receive state funding.

6        (b) If the commission determines an alternatives to  
7 abortion organization violated Section 173.009, the commission  
8 shall withhold state money otherwise to be provided to the  
9 organization. The organization is liable to this state for any  
10 money the organization has already received from the state during  
11 the state fiscal year in which the determination is made. The  
12 organization is not eligible for state funding before the first  
13 anniversary of the date of the commission determination. The  
14 attorney general in the name of the state may bring an action to  
15 recover amounts owed to the state under this section.

16        (c) If the commission determines that an alternatives to  
17 abortion organization that does not receive state money or other  
18 assistance violated this chapter, the attorney general, at the  
19 request of the commission, shall bring an action to impose a civil  
20 penalty in an amount not to exceed \$5,000 for each violation.

21        (d) An alternatives to abortion organization may appeal a  
22 commission determination under this section to the State Office of  
23 Administrative Hearings. An appeal under this subsection is a  
24 contested case under Chapter 2001, Government Code.

25        SECTION 2. This Act takes effect September 1, 2007.