

1-1 By: Patrick, et al. S.B. No. 182
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 26, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 2; March 26, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 182 By: Lucio
1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to informed consent to an abortion.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 171.002, Health and Safety Code, is
1-13 amended to read as follows:
1-14 Sec. 171.002. DEFINITIONS [~~DEFINITION~~]. In this chapter:
1-15 (1) "Abortion" [~~"abortion"~~] means the use of any
1-16 means to terminate the pregnancy of a female known by the attending
1-17 physician to be pregnant with the intention that the termination of
1-18 the pregnancy by those means will, with reasonable likelihood,
1-19 cause the death of the fetus.
1-20 (2) "Medical emergency" means a condition exists that,
1-21 in a physician's good faith clinical judgment, complicates the
1-22 medical condition of the pregnant woman and necessitates the
1-23 immediate abortion of her pregnancy to avert her death or to avoid a
1-24 serious risk of substantial impairment of a major bodily function.
1-25 SECTION 2. Subsections (a), (b), and (c), Section 171.012,
1-26 Health and Safety Code, are amended to read as follows:
1-27 (a) Consent [~~Except in the case of a medical emergency,~~
1-28 ~~consent~~] to an abortion is voluntary and informed only if:
1-29 (1) the physician who is to perform the abortion or the
1-30 physician's agent or the referring physician or the referring
1-31 physician's agent informs the pregnant woman on whom the abortion
1-32 is to be performed of:
1-33 (A) the name of the physician who will perform
1-34 the abortion;
1-35 (B) the particular medical risks associated with
1-36 the particular abortion procedure to be employed, including, when
1-37 medically accurate:
1-38 (i) the risks of infection and hemorrhage;
1-39 (ii) the potential danger to a subsequent
1-40 pregnancy and of infertility; and
1-41 (iii) the possibility of increased risk of
1-42 breast cancer following an induced abortion and the natural
1-43 protective effect of a completed pregnancy in avoiding breast
1-44 cancer;
1-45 (C) the probable gestational age of the unborn
1-46 child at the time the abortion is to be performed; and
1-47 (D) the medical risks associated with carrying
1-48 the child to term;
1-49 (2) the physician who is to perform the abortion or the
1-50 physician's agent informs the pregnant woman that:
1-51 (A) medical assistance benefits may be available
1-52 for prenatal care, childbirth, and neonatal care;
1-53 (B) the father is liable for assistance in the
1-54 support of the child without regard to whether the father has
1-55 offered to pay for the abortion; and
1-56 (C) public and private agencies provide
1-57 pregnancy prevention counseling and medical referrals for
1-58 obtaining pregnancy prevention medications or devices, including
1-59 emergency contraception for victims of rape or incest; [~~and~~]
1-60 (3) the physician who is to perform the abortion or the
1-61 physician's agent:
1-62 (A) provides [~~(D)~~] the pregnant woman with [~~has~~
1-63 ~~the right to review~~] the printed materials described by Section

2-1 171.014; and

2-2 (B) informs her ~~[7]~~ that those materials:

2-3 (i) have been provided by the ~~[Texas]~~

2-4 Department of State Health Services;

2-5 (ii) ~~[and]~~ are accessible on an Internet

2-6 website sponsored by the department;

2-7 (iii) ~~[, and that the materials]~~ describe

2-8 the unborn child and list agencies that offer alternatives to

2-9 abortion; and

2-10 (iv) include a list of agencies that offer

2-11 obstetric ultrasound services at no cost to the pregnant woman and

2-12 that do not provide abortions, abortion-related services, or

2-13 referrals for abortion;

2-14 (4) at least two hours before the abortion, the

2-15 physician who is to perform the abortion or the physician's agent:

2-16 (A) performs an obstetric ultrasound on the

2-17 pregnant woman on whom the abortion is to be performed;

2-18 (B) displays the ultrasound images in a quality

2-19 consistent with current medical practice in a manner that the

2-20 pregnant woman may view them;

2-21 (C) provides, in a manner understandable to a

2-22 layperson, a simultaneous verbal explanation of the results of the

2-23 ultrasound images, including a medical description of the

2-24 dimensions of the embryo or fetus, the presence of cardiac

2-25 activity, and the presence of external members and internal organs;

2-26 and

2-27 (D) makes audible the heart auscultation, if

2-28 present, for the pregnant woman to hear in a quality consistent with

2-29 current medical practice and provides, in a manner understandable

2-30 to a layperson, a simultaneous verbal explanation of the heart

2-31 auscultation;

2-32 (5) ~~[(3)]~~ the pregnant woman certifies in a signed,

2-33 written statement ~~[writing]~~ before the abortion is performed that:

2-34 (A) the information and the printed materials

2-35 described by Subdivisions (1), ~~[and]~~ (2), and (3) have ~~[has]~~ been

2-36 provided and explained to her ~~[and that she has been informed of her~~

2-37 opportunity to review the information described by Section

2-38 171.014];

2-39 (B) she has been provided with and has had the

2-40 opportunity to review the ultrasound images and hear the heart

2-41 auscultation required by Subdivision (4); and

2-42 (C) the nature and consequences of an abortion

2-43 have been explained to her;

2-44 (6) ~~[(4)]~~ before the abortion is performed, the

2-45 physician who is to perform the abortion receives a copy of the

2-46 signed, written certification required by Subdivision (5); and

2-47 (7) the pregnant woman is provided the name of each

2-48 person who provides or explains the information required under this

2-49 subsection ~~[(3)]~~.

2-50 (b) The information required to be provided under

2-51 Subsections (a)(1) and (2) may not be provided by audio or video

2-52 recording and must be provided:

2-53 (1) orally by telephone or in person; and

2-54 (2) at least 24 hours before the abortion is to be

2-55 performed.

2-56 (c) When providing the information under Subsection (a)(3)

2-57 ~~[(a)(2)(D)]~~, the physician or the physician's agent must provide

2-58 the pregnant woman with the address of the Internet website on which

2-59 the printed materials described by Section 171.014 may be viewed as

2-60 required by Section 171.014(e).

2-61 SECTION 3. Subchapter B, Chapter 171, Health and Safety

2-62 Code, is amended by adding Sections 171.0121 and 171.0122 to read as

2-63 follows:

2-64 Sec. 171.0121. VIEWING OR RECEIVING PRINTED MATERIALS OR

2-65 ULTRASOUND IMAGE. (a) A pregnant woman may choose not to view the

2-66 printed materials provided under Section 171.012(a)(3) after she

2-67 has been provided the materials.

2-68 (b) A pregnant woman may choose not to receive the

2-69 information made available to her under Section 171.012(a)(4).

3-1 (c) The physician and the pregnant woman are not subject to
3-2 a penalty under this chapter if the pregnant woman chooses not to
3-3 view the printed materials or receive the ultrasound images or the
3-4 information made available to her under Section 171.012(a)(4).

3-5 Sec. 171.0122. EXCEPTION FOR MEDICAL EMERGENCY. A
3-6 physician may perform an abortion without obtaining informed
3-7 consent under this subchapter in a medical emergency. A physician
3-8 who performs an abortion in a medical emergency shall:

3-9 (1) include in the patient's medical records a
3-10 statement signed by the physician certifying the nature of the
3-11 medical emergency; and

3-12 (2) not later than the seventh day after the date the
3-13 abortion is performed, certify to the Department of State Health
3-14 Services the specific medical condition that constituted the
3-15 emergency.

3-16 SECTION 4. Section 171.013, Health and Safety Code, is
3-17 amended by amending Subsection (a) and adding Subsection (d) to
3-18 read as follows:

3-19 (a) ~~The [If the woman chooses to view the materials~~
3-20 ~~described by Section 171.014, the]~~ physician or the physician's
3-21 agent shall furnish copies of the materials described by Section
3-22 171.014 to the pregnant woman ~~[her]~~ at least 24 hours before the
3-23 abortion is to be performed and shall direct the pregnant woman to
3-24 the Internet website required to be published under Section
3-25 171.014(e). The [A] physician or the physician's agent may furnish
3-26 the materials to the pregnant woman by mail if the materials are
3-27 mailed, restricted delivery to addressee, at least 72 hours before
3-28 the abortion is to be performed.

3-29 (d) If the pregnant woman chooses to receive the information
3-30 described by Section 171.012(a)(4):

3-31 (1) the physician or the physician's agent must make
3-32 the information available not less than two hours before the
3-33 abortion; and

3-34 (2) the pregnant woman shall be provided with the name
3-35 of each person who provides or explains the information.

3-36 SECTION 5. Section 171.015, Health and Safety Code, is
3-37 amended to read as follows:

3-38 Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE
3-39 AGENCIES. The informational materials must include ~~[either]~~:

3-40 (1) geographically indexed materials designed to
3-41 inform the pregnant woman of public and private agencies and
3-42 services that:

3-43 (A) are available to assist a woman through
3-44 pregnancy, childbirth, and the child's dependency, including:

3-45 (i) a comprehensive list of adoption
3-46 agencies;

3-47 (ii) a description of the services the
3-48 adoption agencies offer; ~~[and]~~

3-49 (iii) a description of the manner,
3-50 including telephone numbers, in which an adoption agency may be
3-51 contacted; and

3-52 (iv) a comprehensive list of agencies and
3-53 organizations that offer obstetric ultrasound services at no cost
3-54 to the pregnant woman;

3-55 (B) do not provide abortions or abortion-related
3-56 services or make referrals to abortion providers; and

3-57 (C) are not affiliated with organizations that
3-58 provide abortions or abortion-related services or make referrals to
3-59 abortion providers; ~~[or]~~

3-60 (2) a toll-free, 24-hour telephone number that may be
3-61 called to obtain an oral list and description of agencies described
3-62 by Subdivision (1) that are located near the caller and of the
3-63 services the agencies offer.

3-64 SECTION 6. Subsection (a), Section 164.055, Occupations
3-65 Code, is amended to read as follows:

3-66 (a) The board may take an appropriate disciplinary action
3-67 against a physician who violates Section 170.002 or Chapter 171,
3-68 Health and Safety Code. The board may refuse to admit to
3-69 examination or refuse to issue a license or renewal license to a

4-1 person who violates that section or chapter.

4-2 SECTION 7. The purpose of this Act is to protect the health
4-3 and safety of women.

4-4 SECTION 8. This Act takes effect immediately if it receives
4-5 a vote of two-thirds of all the members elected to each house, as
4-6 provided by Section 39, Article III, Texas Constitution. If this
4-7 Act does not receive the vote necessary for immediate effect, this
4-8 Act takes effect September 1, 2009.

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