

By: Patrick

S.B. No. 21

A BILL TO BE ENTITLED

AN ACT

relating to distributing or prescribing abortion-inducing drugs;  
providing an administrative penalty.

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

SECTION 1. SECTION 1. Chapter 171, Health and Safety Code,  
is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ABORTION-INDUCING DRUGS

Sec. 171.081. DEFINITIONS. In this subchapter:

(1) "Abortion" means the act of using or prescribing  
an instrument, a medicine, a drug, or any other substance, device,  
or means with the intent to terminate a clinically diagnosable  
pregnancy of a woman and with knowledge that the termination by  
those means will, with reasonable likelihood, cause the death of  
the woman's unborn child. An act is not an abortion if the act is  
done with the intent to:

(A) save the life or preserve the health of an  
unborn child;

(B) remove a dead unborn child whose death was  
caused by spontaneous abortion;

(C) remove an ectopic pregnancy; or

(D) treat a maternal disease or illness for which  
the prescribed drug is indicated.

(2) "Abortion-inducing drug" means a medicine, a drug,  
or any other substance prescribed or dispensed with the intent of

1 terminating a clinically diagnosable pregnancy of a woman and with  
2 knowledge that the termination will, with reasonable likelihood,  
3 cause the death of the woman's unborn child. The term includes  
4 off-label use of drugs known to have abortion-inducing properties  
5 that are prescribed with the intent of causing an abortion,  
6 including misoprostol and methotrexate. The term does not include  
7 a drug that may be known to cause an abortion but is prescribed for  
8 other medical reasons.

9           (3) "Drug label" means a pamphlet accompanying an  
10 abortion-inducing drug that:

11                   (A) outlines the protocol tested and authorized  
12 by the United States Food and Drug Administration and agreed to by  
13 the drug company applying for authorization of the drug by that  
14 agency; and

15                   (B) delineates how a drug is to be used according  
16 to approval by that agency.

17           (4) "Gestational age" means the amount of time that  
18 has elapsed since the first day of a woman's last menstrual period.

19           (5) "Medical abortion" means the use of  
20 abortion-inducing drugs to induce an abortion.

21           (6) "Physician" means an individual who is licensed to  
22 practice medicine in this state, including a medical doctor and a  
23 doctor of osteopathic medicine.

24           (7) "Pregnant" means the female reproductive  
25 condition of having an unborn child in a woman's uterus.

26           (8) "Unborn child" means an offspring of human beings  
27 from conception until birth.

1 Sec. 171.082. ENFORCEMENT BY TEXAS MEDICAL BOARD.

2 Notwithstanding Section 171.005, the Texas Medical Board shall  
3 enforce this subchapter.

4 Sec. 171.083. DISTRIBUTION OF ABORTION-INDUCING DRUG.

5 (a) A person may not knowingly give, sell, dispense, administer,  
6 provide, or prescribe an abortion-inducing drug to a pregnant woman  
7 for the purpose of inducing an abortion in the pregnant woman or  
8 enabling another person to induce an abortion in the pregnant woman  
9 unless:

10 (1) the person who gives, sells, dispenses,  
11 administers, provides, or prescribes the abortion-inducing drug is  
12 a physician; and

13 (2) the provision or prescription of the  
14 abortion-inducing drug satisfies the protocol tested and  
15 authorized by the United States Food and Drug Administration as  
16 outlined in the abortion-inducing drug's drug label.

17 (b) Before the physician gives, sells, dispenses,  
18 administers, provides, or prescribes the abortion-inducing drug,  
19 the physician must examine the pregnant woman and document, in the  
20 woman's medical record, the gestational age and intrauterine  
21 location of the pregnancy.

22 (c) The physician who gives, sells, dispenses, administers,  
23 provides, or prescribes the abortion-inducing drug shall provide  
24 the pregnant woman with a copy of the abortion-inducing drug's drug  
25 label.

26 (d) The physician who gives, sells, dispenses, administers,  
27 provides, or prescribes the abortion-inducing drug must:

1           (1) have a signed contract with another physician who  
2 agrees to treat emergencies arising from use of the drug; and

3           (2) produce the signed contract on demand by the  
4 pregnant woman or the Texas Medical Board.

5           (e) The physician who gives, sells, dispenses, administers,  
6 provides, or prescribes the abortion-inducing drug shall provide  
7 the pregnant woman with the name and phone number of:

8           (1) the physician who would treat an emergency arising  
9 from use of the drug; and

10           (2) the hospital at which an emergency arising from  
11 use of the drug would be treated.

12           (f) A physician who contracts to treat an emergency arising  
13 from use of an abortion-inducing drug must have active admitting,  
14 gynecological, and surgical privileges at the hospital designated  
15 to treat the emergency.

16           (g) The physician who gives, sells, dispenses, administers,  
17 provides, or prescribes the abortion-inducing drug, or the  
18 physician's agent, must schedule a follow-up visit for the woman to  
19 occur not more than 14 days after the administration of the drug.  
20 At the follow-up visit, the physician must:

21           (1) confirm that the pregnancy is completely  
22 terminated; and

23           (2) assess the degree of bleeding.

24           (h) The physician who gives, sells, dispenses, administers,  
25 provides, or prescribes the abortion-inducing drug, or the  
26 physician's agent, shall make a reasonable effort to ensure that  
27 the woman returns for the scheduled appointment. The physician or

1 the physician's agent shall include a brief description of any  
2 effort made to comply with this subsection, including the date,  
3 time, and name of the person making the effort, in the woman's  
4 medical record.

5 (i) If a physician provides an abortion-inducing drug to a  
6 pregnant woman for the purpose of inducing an abortion as  
7 authorized by this section and the physician knows that the woman  
8 experiences a serious adverse event, as defined by the MedWatch  
9 Reporting System, during or after using the drug, the physician  
10 shall report the event to the United States Food and Drug  
11 Administration through the MedWatch Reporting System within three  
12 days of the event.

13 Sec. 171.084. ADMINISTRATIVE PENALTY. (a) The Texas  
14 Medical Board may:

15 (1) take disciplinary action under Chapter 164,  
16 Occupations Code, against a person who violates Section 171.083; or

17 (2) assess an administrative penalty under Subchapter  
18 A, Chapter 165, Occupations Code, against a person who violates  
19 Section 171.083.

20 (b) A penalty may not be assessed under this section against  
21 a pregnant woman who receives a medical abortion.

22 SECTION 2. This Act takes effect September 1, 2011, if this  
23 Act receives a vote of two-thirds of all the members elected to each  
24 house, as provided by Section 39, Article III, Texas Constitution.  
25 If this Act does not receive the vote necessary for this Act to take  
26 effect on that date, this Act takes effect on the 91st day after the  
27 last day of the legislative session.