

Amend CSSB 16 (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 171.002, Health and Safety Code, is amended to read as follows:

Sec. 171.002. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Abortion" [~~"abortion"~~] means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant with the intention that the termination of the pregnancy by those means will, with reasonable likelihood, cause the death of the fetus.

(2) "Medical emergency" means a condition exists that, in a physician's good faith clinical judgment, complicates the medical condition of the pregnant woman and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function.

SECTION 2. Section 171.012, Health and Safety Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (f) and (g) to read as follows:

(a) Consent [~~Except in the case of a medical emergency, consent~~] to an abortion is voluntary and informed only if:

(1) the physician who is to perform the abortion or the referring physician informs the pregnant woman on whom the abortion is to be performed of:

(A) the name of the physician who will perform the abortion;

(B) the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate:

(i) the risks of infection and hemorrhage;

(ii) the potential danger to a subsequent pregnancy and of infertility; and

(iii) the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer;

(C) the probable gestational age of the unborn child at the time the abortion is to be performed; and

(D) the medical risks associated with carrying the child to term;

(2) the physician who is to perform the abortion or the physician's agent informs the pregnant woman that:

(A) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(B) the father is liable for assistance in the support of the child without regard to whether the father has offered to pay for the abortion; and

(C) public and private agencies provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices, including emergency contraception for victims of rape or incest; ~~and~~

(3) the physician who is to perform the abortion or the physician's agent:

(A) provides ~~[(D)]~~ the pregnant woman with ~~[has the right to review]~~ the printed materials described by Section 171.014;

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

(i) have been provided by the ~~[Texas]~~ Department of State Health Services;

(ii) ~~and~~ are accessible on an Internet website sponsored by the department; and

(iii) ~~[, and that the materials]~~ describe the unborn child and list agencies that offer alternatives to abortion;

(C) informs her that she is not required to review those materials; and

(D) provides the pregnant woman with a form that states the following:

ULTRASOUND ELECTION

TEXAS LAW REQUIRES YOU TO UNDERGO AN ULTRASOUND

PRIOR TO RECEIVING AN ABORTION.

I ELECT TO ___ SEE ___ NOT SEE THE ULTRASOUND.

I ELECT TO ___ HEAR ___ NOT HEAR THE ULTRASOUND.

I ELECT TO ___ RECEIVE ___ NOT RECEIVE A VERBAL EXPLANATION OF THE ULTRASOUND RESULTS.

I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND WITHOUT COERCION.

SIGNATURE _____ DATE _____;

(4) before the abortion, the pregnant woman undergoes an obstetric ultrasound performed by the physician or the physician's agent and:

(A) views the ultrasound, unless she has elected not to view the ultrasound on the form provided under Subdivision (3)(D);

(B) hears, subject to Subsection (g), the heart auscultation in a quality consistent with current medical practice and a simultaneous verbal explanation of the heart auscultation, unless she has elected not to hear the auscultation or the explanation on the form provided under Subdivision (3)(D); and

(C) receives in a manner understandable to a layperson a simultaneous verbal explanation of the results of the ultrasound images, including a medical description of the dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of external members and internal organs, unless she has elected not to receive the explanation on the form provided under Subdivision (3)(D);

(5) [~~(3)~~] the pregnant woman certifies in a signed, written statement [~~writing~~] before the abortion is performed that the information and the printed materials described by Subdivisions (1), [~~and~~] (2), and (3) have [~~has~~] been provided and explained to her [~~and that she has been informed of her opportunity to review the information described by Section 171.014~~]; [~~and~~]

(6) [~~(4)~~] before the abortion is performed, the physician who is to perform the abortion receives a copy of the signed, written certification required by Subdivision (5); and

(7) the pregnant woman is provided the name of each person who provides or explains the information required under this subsection [~~(3)~~].

(b) The information required to be provided under Subsections (a)(1) and (2) may not be provided by audio or video recording and must be provided:

(1) orally by telephone or in person; and

(2) at least two [24] hours before the abortion is to be performed.

(c) When providing the information under Subsection (a)(3) [~~(a)(2)(D)~~], the physician or the physician's agent must provide the pregnant woman with the address of the Internet website on which the printed materials described by Section 171.014 may be viewed as required by Section 171.014(e).

(f) The physician and the pregnant woman are not subject to a penalty under this chapter solely because the pregnant woman chooses not to view the printed materials or the ultrasound images or requests not to hear the heart auscultation as described by this section.

(g) Notwithstanding any other law, the physician or the physician's agent is not required to comply with Subsection (a)(4)(B) or offer the pregnant woman the opportunity to hear the heart auscultation if the technology required to comply with Subsection (a)(4)(B) is not available at the facility where the obstetric ultrasound is performed. A facility described by this subsection may omit the following statement from the form required under Subsection (a)(3)(D):

"I ELECT TO HEAR NOT HEAR THE ULTRASOUND."

SECTION 3. Subchapter B, Chapter 171, Health and Safety Code, is amended by adding Section 171.0121 to read as follows:

Sec. 171.0121. EXCEPTION FOR MEDICAL EMERGENCY. A physician may perform an abortion without obtaining informed consent under this subchapter in a medical emergency. A physician who performs an abortion in a medical emergency shall:

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

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

SECTION 4. Section 171.013(a), Health and Safety Code, is amended to read as follows:

(a) The [~~If the woman chooses to view the materials~~

~~described by Section 171.014, the~~ physician or the physician's agent shall furnish copies of the materials described by Section 171.014 to the pregnant woman ~~[her]~~ at least 24 hours before the abortion is to be performed and shall direct the pregnant woman to the Internet website required to be published under Section 171.014(e). The [A] physician or the physician's agent may furnish the materials to the pregnant woman by mail if the materials are mailed, restricted delivery to addressee, at least 72 hours before the abortion is to be performed.

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

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

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

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

(i) a comprehensive list of adoption agencies;

(ii) a description of the services the adoption agencies offer; ~~and~~

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

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

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

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

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

SECTION 6. Section 171.017, Health and Safety Code, is amended to read as follows:

Sec. 171.017. PERIODS RUN CONCURRENTLY. If the woman is an unemancipated minor subject to Chapter 33, Family Code, the two-hour period [~~24-hour periods~~] established under Section [~~Sections~~] 171.012(b) and the 24-hour period established under Section 171.013(a) may run concurrently with the period during which actual or constructive notice is provided under Section 33.002, Family Code.

SECTION 7. Section 164.055(a), Occupations Code, is amended to read as follows:

(a) The board may take an appropriate disciplinary action against a physician who violates Section 170.002 or Chapter 171, Health and Safety Code. The board may refuse to admit to examination or refuse to issue a license or renewal license to a person who violates that section or chapter.

SECTION 8. The purpose of this Act is to protect the health and safety of women.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.