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H.B. No. 15

Substitute the following for H.B. No. 15:

By: Harless

C.S.H.B. No. 15

A BILL TO BE ENTITLED

AN ACT

relating to providing a sonogram before an abortion; providing penalties.

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

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

SUBCHAPTER C. PERFORMANCE OF SONOGRAM BEFORE ABORTION

Sec. 171.051. DEFINITIONS. In this subchapter:

(1) "Abortion provider" means a facility where an abortion is performed, including the office of a physician and a facility licensed under Chapter 241, 243, or 245.

(2) "Medical emergency" means a life-threatening physical condition caused by or arising from a pregnancy itself that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(3) "Sonogram" means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor an unborn child.

Sec. 171.052. INFORMATION REGARDING SONOGRAM PROVIDERS.

(a) Not more than 72 hours and not less than 24 hours before an abortion begins, the physician who is to perform the abortion shall:

(1) provide the pregnant woman on whom the abortion is

1 to be performed with the informational materials described by
2 Section 171.014;

3 (2) inform the pregnant woman on whom the abortion is
4 to be performed that the materials required by Section 171.014:

5 (A) are provided by the Department of State
6 Health Services;

7 (B) are accessible on an Internet website
8 sponsored by the department;

9 (C) describe the unborn child; and

10 (D) list agencies that offer alternatives to
11 abortion; and

12 (3) provide the pregnant woman on whom the abortion is
13 to be performed with a comprehensive list of health care providers,
14 facilities, and clinics that offer obstetric sonogram services at
15 no cost to the pregnant woman and that do not:

16 (A) perform abortions or provide
17 abortion-related services;

18 (B) make referrals to any abortion provider; or

19 (C) affiliate or contract with any entity that
20 performs abortions, provides abortion-related services, or makes
21 referrals to any abortion provider.

22 (b) The department shall compile the list described by
23 Subsection (a)(3) and shall make the list available at no cost. The
24 department shall provide appropriate quantities of the list to an
25 abortion provider and to any other person. The list must include
26 the name, address, hours of operation, and telephone number for
27 each health care provider, facility, and clinic that satisfies the

1 requirements of Subsection (a)(3) and be:

2 (1) arranged by county;

3 (2) printed in a typeface large enough to be clearly
4 legible; and

5 (3) published in English and Spanish.

6 (c) The department is not required to republish the list
7 described by Subsection (a)(3) because of a change in information
8 described by Subsection (b) unless five percent or more of the
9 information contained in the list changes.

10 Sec. 171.053. PERFORMANCE OF SONOGRAM. (a) Not more than
11 72 hours and not less than 24 hours before the abortion begins and
12 before any sedative or anesthesia is administered to the pregnant
13 woman, the physician who is to perform the abortion or a sonographer
14 certified by a national registry of medical sonographers shall:

15 (1) perform a live, real-time obstetric sonogram on
16 the pregnant woman on whom the abortion is to be performed;

17 (2) display the live, real-time obstetric sonogram
18 images in a quality consistent with current medical practice in a
19 manner that the pregnant woman may view them;

20 (3) provide, in a manner understandable to a
21 layperson, a simultaneous verbal explanation of the results of the
22 live, real-time sonogram images, including a medical description of
23 the dimensions of the embryo or fetus, the presence of cardiac
24 activity, and the presence of arms, legs, external members, and
25 internal organs; and

26 (4) make audible the live, real-time heart
27 auscultation, when present, for the pregnant woman to hear, in a

1 quality consistent with current medical practice, and provide, in a
2 manner understandable to a layperson, a simultaneous verbal
3 explanation of the live, real-time heart auscultation.

4 (b) During a visit made to a facility to fulfill the
5 requirements of Subsection (a), the facility and any person at the
6 facility may not accept any form of payment, deposit, or exchange or
7 make any financial agreement for an abortion or abortion-related
8 services other than for payment of a service required by Subsection
9 (a). The amount charged for a service required by Subsection (a)
10 may not exceed the reimbursement rate established for the service
11 by the Health and Human Services Commission for statewide medical
12 reimbursement programs.

13 Sec. 171.054. CERTIFICATION OF SONOGRAM. (a) After the
14 live, real-time sonogram and the live, real-time heart auscultation
15 required under Section 171.053 and before any sedative or
16 anesthesia is administered to the pregnant woman and before the
17 abortion begins, the pregnant woman on whom the abortion is to be
18 performed shall certify by her signature that not more than 72 hours
19 and not less than 24 hours before the abortion begins:

20 (1) she was provided with a live, real-time sonogram
21 as required under Section 171.053;

22 (2) she had the opportunity to view the live,
23 real-time sonogram images as required under Section 171.053;

24 (3) she was provided, in a manner understandable to a
25 layperson, a simultaneous verbal explanation of the results of the
26 sonogram images as required under Section 171.053; and

27 (4) she heard the live, real-time heart auscultation,

1 when present, as required under Section 171.053.

2 (b) The department shall prepare the form to be used to make
3 the certification required under Subsection (a). The form must
4 include a space for the pregnant woman's signature and space for the
5 woman to sign her initials beside each of the following statements:

6 (1) "Not more than 72 hours and not less than 24 hours
7 before my abortion is to begin and at the facility where my abortion
8 is to be performed, the doctor who is performing an abortion on me
9 or a sonographer certified by a national registry of medical
10 sonographers performed a sonogram on me and displayed the live,
11 real-time sonogram images so that I could view them.";

12 (2) "The doctor who is performing an abortion on me or
13 a sonographer certified by a national registry of medical
14 sonographers has given me, in an understandable manner, a
15 simultaneous verbal explanation of the results of the live,
16 real-time sonogram images, including a medical description of the
17 dimensions of the embryo or fetus, the presence of cardiac
18 activity, and the presence of arms, legs, external members, and
19 internal organs."; and

20 (3) "The doctor performing an abortion on me or a
21 sonographer certified by a national registry of medical
22 sonographers has made audible the live, real-time heart activity,
23 when present, for me to hear. The doctor or sonographer has also
24 provided, in an understandable manner, a simultaneous verbal
25 explanation of the live, real-time heart activity."

26 (c) Before the abortion begins, a copy of the form required
27 under this section must be:

1 (1) given to the physician who is to perform the
2 abortion; and

3 (2) placed in the pregnant woman's medical records.

4 (d) A copy of the form required under this section shall be
5 retained by the abortion provider until:

6 (1) the seventh anniversary of the date it is signed;

7 or

8 (2) if the pregnant woman is a minor, the later of:

9 (A) the seventh anniversary of the date it is
10 signed; or

11 (B) the woman's 21st birthday.

12 Sec. 171.055. RECEIVING INFORMATION DURING SONOGRAM. The
13 physician and the pregnant woman are not subject to a penalty under
14 this subchapter solely because the pregnant woman chooses not to
15 receive the information required to be provided under Section
16 171.053.

17 Sec. 171.056. EXCEPTION FOR MEDICAL EMERGENCY. (a) A
18 physician may perform an abortion without providing the sonogram
19 required under Section 171.053 only in a medical emergency. A
20 physician who performs an abortion in a medical emergency shall:

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

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

1 (b) The statement required under Subsection (a)(1) shall be
2 placed in the patient's medical records and shall be kept by the
3 abortion provider until:

4 (1) the seventh anniversary of the date the abortion
5 is performed; or

6 (2) if the pregnant woman is a minor, the later of:

7 (A) the seventh anniversary of the date the
8 abortion is performed; or

9 (B) the woman's 21st birthday.

10 Sec. 171.057. VIOLATION. (a) A physician who performs an
11 abortion in violation of this subchapter engages in unprofessional
12 conduct for which the physician's license shall be revoked under
13 Chapter 164, Occupations Code.

14 (b) The department, in accordance with the procedures
15 established under Chapter 241, 243, or 245, as applicable, shall
16 revoke the license of an abortion provider that violates this
17 subchapter.

18 SECTION 2. Subchapter A, Chapter 241, Health and Safety
19 Code, is amended by adding Section 241.007 to read as follows:

20 Sec. 241.007. COMPLIANCE WITH CERTAIN REQUIREMENTS
21 REGARDING SONOGRAM BEFORE ABORTION. A hospital shall comply with
22 Subchapter C, Chapter 171.

23 SECTION 3. Subchapter A, Chapter 243, Health and Safety
24 Code, is amended by adding Section 243.017 to read as follows:

25 Sec. 243.017. COMPLIANCE WITH CERTAIN REQUIREMENTS
26 REGARDING SONOGRAM BEFORE ABORTION. An ambulatory surgical center
27 shall comply with Subchapter C, Chapter 171.

1 SECTION 4. Chapter 245, Health and Safety Code, is amended
2 by adding Section 245.024 to read as follows:

3 Sec. 245.024. COMPLIANCE WITH CERTAIN REQUIREMENTS
4 REGARDING SONOGRAM BEFORE ABORTION. An abortion facility shall
5 comply with Subchapter C, Chapter 171.

6 SECTION 5. Subchapter B, Chapter 164, Occupations Code, is
7 amended by adding Section 164.0551 to read as follows:

8 Sec. 164.0551. COMPLIANCE WITH CERTAIN REQUIREMENTS
9 REGARDING SONOGRAM BEFORE ABORTION. A physician shall comply with
10 Subchapter C, Chapter 171, Health and Safety Code.

11 SECTION 6. The change in law made by this Act applies only
12 to an abortion performed on or after the 60th day after the
13 effective date of this Act. An abortion performed before the 60th
14 day after the effective date of this Act is governed by the law in
15 effect on the date the abortion was performed, and the former law is
16 continued in effect for that purpose.

17 SECTION 7. The Department of State Health Services shall
18 compile the list required by Section 171.052, Health and Safety
19 Code, as added by this Act, not later than the 60th day after the
20 effective date of this Act.

21 SECTION 8. If any provision of this Act or its application
22 to any person or circumstance is held invalid, the invalidity does
23 not affect other provisions or applications of this Act that can be
24 given effect without the invalid provision or application, and to
25 this end the provisions of this Act are severable.

26 SECTION 9. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2011.