

1-1 By: Patrick S.B. No. 1790  
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 May 13, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 2; May 13, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1790 By: Patrick  
1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to distributing or prescribing abortion-inducing drugs;  
1-11 providing an administrative penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-13 SECTION 1. Chapter 171, Health and Safety Code, is amended  
1-14 by adding Subchapter D to read as follows:

1-15 SUBCHAPTER D. ABORTION-INDUCING DRUGS  
1-16 Sec. 171.081. DEFINITIONS. In this subchapter:

1-17 (1) "Abortion" means the act of using or prescribing  
1-18 an instrument, a medicine, a drug, or any other substance, device,  
1-19 or means with the intent to terminate a clinically diagnosable  
1-20 pregnancy of a woman and with knowledge that the termination by  
1-21 those means will, with reasonable likelihood, cause the death of  
1-22 the woman's unborn child. An act is not an abortion if the act is  
1-23 done with the intent to:

1-24 (A) save the life or preserve the health of an  
1-25 unborn child;

1-26 (B) remove a dead unborn child whose death was  
1-27 caused by spontaneous abortion;

1-28 (C) remove an ectopic pregnancy; or

1-29 (D) treat a maternal disease or illness for which  
1-30 the prescribed drug is indicated.

1-31 (2) "Abortion-inducing drug" means a medicine, a drug,  
1-32 or any other substance prescribed or dispensed with the intent of  
1-33 terminating a clinically diagnosable pregnancy of a woman and with  
1-34 knowledge that the termination will, with reasonable likelihood,  
1-35 cause the death of the woman's unborn child. The term includes  
1-36 off-label use of drugs known to have abortion-inducing properties  
1-37 that are prescribed with the intent of causing an abortion,  
1-38 including misoprostol and methotrexate. The term does not include  
1-39 a drug that may be known to cause an abortion but is prescribed for  
1-40 other medical reasons.

1-41 (3) "Drug label" means a pamphlet accompanying an  
1-42 abortion-inducing drug that:

1-43 (A) outlines the protocol tested and authorized  
1-44 by the United States Food and Drug Administration and agreed to by  
1-45 the drug company applying for authorization of the drug by that  
1-46 agency; and

1-47 (B) delineates how a drug is to be used according  
1-48 to approval by that agency.

1-49 (4) "Gestational age" means the amount of time that  
1-50 has elapsed since the first day of a woman's last menstrual period.

1-51 (5) "Medical abortion" means the use of  
1-52 abortion-inducing drugs to induce an abortion.

1-53 (6) "Physician" means an individual who is licensed to  
1-54 practice medicine in this state, including a medical doctor and a  
1-55 doctor of osteopathic medicine.

1-56 (7) "Pregnant" means the female reproductive  
1-57 condition of having an unborn child in a woman's uterus.

1-58 (8) "Unborn child" means an offspring of human beings  
1-59 from conception until birth.

1-60 Sec. 171.082. ENFORCEMENT BY TEXAS MEDICAL BOARD.  
1-61 Notwithstanding Section 171.005, the Texas Medical Board shall  
1-62 enforce this subchapter.

1-63 Sec. 171.083. DISTRIBUTION OF ABORTION-INDUCING DRUG.

2-1 (a) A person may not knowingly give, sell, dispense, administer,  
2-2 provide, or prescribe an abortion-inducing drug to a pregnant woman  
2-3 for the purpose of inducing an abortion in the pregnant woman or  
2-4 enabling another person to induce an abortion in the pregnant woman  
2-5 unless:  
2-6 (1) the person who gives, sells, dispenses,  
2-7 administers, provides, or prescribes the abortion-inducing drug is  
2-8 a physician; and  
2-9 (2) the provision or prescription of the  
2-10 abortion-inducing drug satisfies the protocol tested and  
2-11 authorized by the United States Food and Drug Administration as  
2-12 outlined in the abortion-inducing drug's drug label.  
2-13 (b) Before the physician gives, sells, dispenses,  
2-14 administers, provides, or prescribes the abortion-inducing drug,  
2-15 the physician must examine the pregnant woman and document, in the  
2-16 woman's medical record, the gestational age and intrauterine  
2-17 location of the pregnancy.  
2-18 (c) The physician who gives, sells, dispenses, administers,  
2-19 provides, or prescribes the abortion-inducing drug shall provide  
2-20 the pregnant woman with a copy of the abortion-inducing drug's drug  
2-21 label.  
2-22 (d) The physician who gives, sells, dispenses, administers,  
2-23 provides, or prescribes the abortion-inducing drug must:  
2-24 (1) have a signed contract with another physician who  
2-25 agrees to treat emergencies arising from use of the drug; and  
2-26 (2) produce the signed contract on demand by the  
2-27 pregnant woman or the Texas Medical Board.  
2-28 (e) The physician who gives, sells, dispenses, administers,  
2-29 provides, or prescribes the abortion-inducing drug shall provide  
2-30 the pregnant woman with the name and phone number of:  
2-31 (1) the physician who would treat an emergency arising  
2-32 from use of the drug; and  
2-33 (2) the hospital at which an emergency arising from  
2-34 use of the drug would be treated.  
2-35 (f) A physician who contracts to treat an emergency arising  
2-36 from use of an abortion-inducing drug must have active admitting,  
2-37 gynecological, and surgical privileges at the hospital designated  
2-38 to treat the emergency.  
2-39 (g) The physician who gives, sells, dispenses, administers,  
2-40 provides, or prescribes the abortion-inducing drug, or the  
2-41 physician's agent, must schedule a follow-up visit for the woman to  
2-42 occur not more than 14 days after the administration of the drug.  
2-43 At the follow-up visit, the physician must:  
2-44 (1) confirm that the pregnancy is completely  
2-45 terminated; and  
2-46 (2) assess the degree of bleeding.  
2-47 (h) The physician who gives, sells, dispenses, administers,  
2-48 provides, or prescribes the abortion-inducing drug, or the  
2-49 physician's agent, shall make a reasonable effort to ensure that  
2-50 the woman returns for the scheduled appointment. The physician or  
2-51 the physician's agent shall include a brief description of any  
2-52 effort made to comply with this subsection, including the date,  
2-53 time, and name of the person making the effort, in the woman's  
2-54 medical record.  
2-55 (i) If a physician provides an abortion-inducing drug to a  
2-56 pregnant woman for the purpose of inducing an abortion as  
2-57 authorized by this section and the physician knows that the woman  
2-58 experiences a serious adverse event, as defined by the MedWatch  
2-59 Reporting System, during or after using the drug, the physician  
2-60 shall report the event to the United States Food and Drug  
2-61 Administration through the MedWatch Reporting System within three  
2-62 days of the event.  
2-63 Sec. 171.084. ADMINISTRATIVE PENALTY. (a) The Texas  
2-64 Medical Board may:  
2-65 (1) take disciplinary action under Chapter 164,  
2-66 Occupations Code, against a person who violates Section 171.083; or  
2-67 (2) assess an administrative penalty under Subchapter  
2-68 A, Chapter 165, Occupations Code, against a person who violates  
2-69 Section 171.083.

3-1 (b) A penalty may not be assessed under this section against  
3-2 a pregnant woman who receives a medical abortion.

3-3 SECTION 2. This Act takes effect immediately if it receives  
3-4 a vote of two-thirds of all the members elected to each house, as  
3-5 provided by Section 39, Article III, Texas Constitution. If this  
3-6 Act does not receive the vote necessary for immediate effect, this  
3-7 Act takes effect September 1, 2011.

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