

Amend CSSB 5 by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter A, Chapter 171, Health and Safety Code, is amended by adding Section 171.0031 to read as follows:

Sec. 171.0031. REQUIREMENTS OF PHYSICIAN; OFFENSE. (a) A physician performing or inducing an abortion:

(1) must, on the date the abortion is performed, have active admitting privileges at a hospital that:

(A) is located not further than 30 miles from the location at which the abortion is performed or induced; and

(B) provides obstetrical or gynecological health care services; and

(2) shall provide the pregnant woman with:

(A) a telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or by the facility at which the abortion was performed with access to the woman's relevant medical records, 24 hours a day to request assistance for any complications that arise from the performance of the abortion or ask health-related questions regarding the abortion; and

(B) the name and telephone number of the nearest hospital to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

(b) A physician who violates Subsection (a) commits an offense. An offense under this section is a Class A misdemeanor punishable by a fine only, not to exceed \$4,000.

SECTION 2. Chapter 171, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. ABORTION-INDUCING DRUGS

Sec. 171.041. DEFINITIONS. In this subchapter:

(1) "Abortion-inducing drug" means a drug, a medicine, or any other substance, including a regimen of two or more drugs, medicines, or substances, prescribed, dispensed, or administered with the intent of terminating a clinically diagnosable pregnancy of a woman and with knowledge that the termination will, with reasonable likelihood, cause the death of the woman's unborn child. The term includes off-label use of drugs, medicines, or other

substances known to have abortion-inducing properties that are prescribed, dispensed, or administered with the intent of causing an abortion, including the Mifeprex regimen. The term does not include a drug, medicine, or other substance that may be known to cause an abortion but is prescribed, dispensed, or administered for other medical reasons.

(2) "Final printed label" or "FPL" means the informational document approved by the United States Food and Drug Administration for an abortion-inducing drug that:

(A) outlines the protocol authorized by that agency and agreed to by the drug company applying for authorization of the drug by that agency; and

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

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

(4) "Medical abortion" means the administration or use of an abortion-inducing drug to induce an abortion.

(5) "Mifeprex regimen," "RU-486 regimen," or "RU-486" means the abortion-inducing drug regimen approved by the United States Food and Drug Administration that consists of administering mifepristone and misoprostol.

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

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

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

Sec. 171.0411. APPLICABILITY TO MEDICAL ABORTION. This subchapter does not apply to an abortion with the intent to:

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

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

(3) remove an ectopic pregnancy; or

(4) treat a maternal disease or illness for which a

prescribed drug, medicine, or other substance is indicated.

Sec. 171.042. ENFORCEMENT BY TEXAS MEDICAL BOARD.

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

Sec. 171.043. DISTRIBUTION OF ABORTION-INDUCING DRUG.

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

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

(2) the physician administering the abortion-inducing drug administers the drug to the woman while both are present at an abortion facility licensed under Chapter 245; and

(3) the provision, prescription, or administration of the abortion-inducing drug satisfies the protocol tested and authorized by the United States Food and Drug Administration as outlined in the final printed label of the abortion-inducing drug.

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

(c) The physician who gives, sells, dispenses, administers, provides, or prescribes an abortion-inducing drug shall provide the pregnant woman with:

(1) a copy of the final printed label of that abortion-inducing drug; and

(2) a telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or by the facility at which the abortion was performed with access to the woman's relevant medical records, 24 hours a day to request assistance for any complications that arise from the administration or use of the drug or ask health-related questions regarding the administration or use of the drug.

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

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

(2) assess the degree of bleeding.

(e) The physician who gives, sells, dispenses, administers, provides, or prescribes the abortion-inducing drug, or the physician's agent, shall make a reasonable effort to ensure that the woman returns for the scheduled follow-up visit under Subsection (d). The physician or the physician's agent shall document a brief description of any effort made to comply with this subsection, including the date, time, and name of the person making the effort, in the woman's medical record.

(f) If a physician gives, sells, dispenses, administers, provides, or prescribes an abortion-inducing drug to a pregnant woman for the purpose of inducing an abortion as authorized by this section and the physician knows that the woman experiences a serious adverse event, as defined by the MedWatch Reporting System, during or after the administration or use of the drug, the physician shall report the event to the United States Food and Drug Administration through the MedWatch Reporting System not later than the third day after the date the physician learns that the event occurred.

Sec. 171.044. ADMINISTRATIVE PENALTY. (a) The Texas Medical Board may take disciplinary action under Chapter 164, Occupations Code, or assess an administrative penalty under Subchapter A, Chapter 165, Occupations Code, against a person who violates Section 171.043.

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

SECTION 3. Subsection (a), Section 245.010, Health and Safety Code, is amended to read as follows:

(a) The rules must contain minimum standards to protect the health and safety of a patient of an abortion facility and must

contain provisions requiring compliance with the requirements of Subchapter B, Chapter 171. On and after September 1, 2014, the minimum standards for an abortion facility must be equivalent to the minimum standards adopted under Section 243.010 for ambulatory surgical centers.

SECTION 4. Effective September 1, 2014, Subsection (c), Section 245.010, Health and Safety Code, is repealed.

SECTION 5. This Act may not be construed to repeal, by implication or otherwise, Subdivision (18), Subsection (a), Section 164.052, Occupations Code, Section 170.002, Health and Safety Code, or any other provision of Texas law regulating or restricting abortion not specifically addressed by this Act. An abortion that complies with this Act but violates any other law is unlawful. An abortion that complies with another state law but violates this Act is unlawful as provided in this Act.

SECTION 6. (a) If some or all of the provisions of this Act are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of Texas law regulating or restricting abortion shall be enforced as though the restrained or enjoined provisions had not been adopted; provided, however, that whenever the temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, the provisions shall have full force and effect.

(b) Mindful of Leavitt v. Jane L., 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court held that an explicit statement of legislative intent is controlling, it is the intent of the legislature that every provision, section, subsection, sentence, clause, phrase, or word in this Act, and every application of the provisions in this Act, are severable from each other. If any application of any provision in this Act to any person, group of persons, or circumstances is found by a court to be invalid, the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected. All constitutionally valid applications of this Act shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the

legislature's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this Act to impose an undue burden in a large or substantial fraction of relevant cases, the applications that do not present an undue burden shall be severed from the remaining provisions and shall remain in force, and shall be treated as if the legislature had enacted a statute limited to the persons, group of persons, or circumstances for which the statute's application does not present an undue burden. The legislature further declares that it would have passed this Act, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of this Act, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this Act, were to be declared unconstitutional or to represent an undue burden.

(c) If any provision of this Act is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force.

SECTION 7. (a) The executive commissioner of the Health and Human Services Commission shall adopt the standards required by Section 245.010, Health and Safety Code, as amended by this Act, not later than January 1, 2014.

(b) A facility licensed under Chapter 245, Health and Safety Code, is not required to comply with the standards adopted under Section 245.010, Health and Safety Code, as amended by this Act, before September 1, 2014.

SECTION 8. 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 on the 91st day after the last day of the legislative session.