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S.B. No. 1033

A BILL TO BE ENTITLED

AN ACT

relating to information regarding perinatal palliative care and prohibiting discriminatory abortions; creating an administrative penalty, a civil remedy, and a criminal offense.

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

SECTION 1. This Act may be cited as the Preborn Nondiscrimination Act.

SECTION 2. The legislature finds that:

(1) Texas has a compelling state interest in protecting all Texans from discrimination based on sex, race, and disability; and

(2) Texas enforces prohibitions against discrimination based on sex, race, and disability in various areas, including housing, employment, education, insurance, and health program and service provision.

SECTION 3. Chapter 161, Health and Safety Code, is amended by adding Subchapter X to read as follows:

SUBCHAPTER X. PERINATAL PALLIATIVE CARE

Sec. 161.701. PURPOSE OF SUBCHAPTER. The purpose of this subchapter is to ensure that:

(1) a pregnant woman who receives a diagnosis of a life-threatening disability of the woman's preborn child is informed of the availability of perinatal palliative care; and

(2) a pregnant woman who chooses abortion after

1 receiving a diagnosis of a life-threatening disability of the
2 woman's preborn child makes a fully informed decision.

3 Sec. 161.702. DEFINITION. In this subchapter, "perinatal
4 palliative care" means the provision of comprehensive, supportive
5 care to reduce the suffering of a pregnant woman, her preborn child,
6 and her family, from diagnosis of the preborn child's
7 life-threatening disability through the delivery and possible
8 death of the child as a result of the life-threatening disability.
9 The term includes medical, social, and mental health care,
10 including counseling and health care provided by maternal-fetal
11 medical specialists, obstetricians, neonatologists, anesthesia
12 specialists, specialty nurses, clergy, social workers, and other
13 individuals focused on alleviating fear and pain and ensuring the
14 pregnant woman, her preborn child, and her family experience a
15 supportive environment.

16 Sec. 161.703. PERINATAL PALLIATIVE CARE INFORMATIONAL
17 MATERIALS. (a) The commission shall develop perinatal palliative
18 care informational materials and post the materials on the
19 commission's Internet website. The materials must include:

20 (1) a description of the health care and other
21 services available through perinatal palliative care; and

22 (2) information about medical assistance benefits
23 that may be available for prenatal care, childbirth, and perinatal
24 palliative care.

25 (b) The commission shall develop, regularly update, and
26 publish a geographically indexed list of all perinatal palliative
27 care providers and programs in this state. The commission may

1 include perinatal palliative care providers and programs in other
2 states that provide care to residents of this state but may not
3 include an abortion provider, as defined by Section 171.002. The
4 commission shall post the list of perinatal palliative care
5 providers and programs, including contact information, on the
6 commission's Internet website and note the providers and programs
7 that provide services free of charge.

8 Sec. 161.704. PERINATAL PALLIATIVE CARE CERTIFICATION
9 FORM. The commission shall develop a form on which a pregnant woman
10 certifies that she has received the perinatal palliative care
11 informational materials and list of the perinatal palliative care
12 providers and programs described by Section 161.703.

13 Sec. 161.705. HEALTH CARE PROVIDER DUTIES ON DIAGNOSIS OF
14 PREBORN CHILD'S LIFE-THREATENING DISABILITY. A health care
15 provider who diagnoses a pregnant woman's preborn child as having a
16 life-threatening disability shall, at the time of the diagnosis:

17 (1) provide the pregnant woman with a written copy of:

18 (A) the perinatal palliative care informational
19 materials and list of the perinatal palliative care providers and
20 programs described by Section 161.703; and

21 (B) the perinatal palliative care certification
22 form described by Section 161.704; and

23 (2) obtain from the pregnant woman the signed
24 perinatal palliative care certification form and place the form in
25 the pregnant woman's medical records.

26 Sec. 161.706. EXCEPTION. (a) A health care provider is
27 not required to provide the perinatal palliative care informational

1 materials or perinatal palliative care certification form under
2 this subchapter if the health care provider verifies the pregnant
3 woman's medical record contains a signed perinatal palliative care
4 certification form for that pregnancy as required under Section
5 161.705(2).

6 (b) This section does not affect a health care provider's
7 duty to provide the perinatal palliative care informational
8 materials or perinatal palliative care certification form
9 described by this subchapter as required under Subchapter B,
10 Chapter 171.

11 SECTION 4. Chapter 170, Health and Safety Code, is amended
12 by designating Sections 170.001 and 170.002 as Subchapter A and
13 adding a subchapter heading to read as follows:

14 SUBCHAPTER A. GENERAL PROVISIONS; POST-VIABILITY ABORTION

15 PROHIBITED

16 SECTION 5. Section 170.001(3), Health and Safety Code, is
17 amended to read as follows:

18 (3) "Viable" means the stage of fetal development
19 when, in the medical judgment of the attending physician based on
20 the particular facts of the case, a preborn [~~an unborn~~] child
21 possesses the capacity to live outside its mother's womb after its
22 premature birth from any cause. The term does not include a fetus
23 whose biparietal diameter is less than 60 millimeters.

24 SECTION 6. Section 170.002, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 170.002. PROHIBITED ACTS; EXEMPTION. (a) Except as
27 provided by Subsection (b), a person may not intentionally or

1 knowingly perform an abortion on a woman who is pregnant with a
2 viable preborn [~~unborn~~] child during the third trimester of the
3 pregnancy.

4 (b) Subsection (a) does not prohibit a person from
5 performing an abortion if at the time of the abortion the person is
6 a physician and concludes in good faith according to the
7 physician's best medical judgment that[+]

8 [~~(1) the fetus is not a viable fetus and the pregnancy~~
9 ~~is not in the third trimester;~~

10 [(2)] the abortion is necessary due to a medical
11 emergency, as defined by Section 171.002 [~~to prevent the death or a~~
12 ~~substantial risk of serious impairment to the physical or mental~~
13 ~~health of the woman; or~~

14 [(3) the fetus has a severe and irreversible
15 abnormality, identified by reliable diagnostic procedures].

16 (c) A physician who performs an abortion that, according to
17 the physician's best medical judgment at the time of the abortion,
18 is to abort a viable preborn [~~unborn~~] child during the third
19 trimester of the pregnancy shall certify in writing to the
20 commission, on a form prescribed by the commission, the medical
21 indications supporting the physician's judgment that the abortion
22 was authorized by Subsection (b) [(b)(2) or (3)]. ~~If the physician~~
23 ~~certifies the abortion was authorized by Subsection (b)(3), the~~
24 ~~physician shall certify in writing on the form the fetal~~
25 ~~abnormality identified by the physician]. The certification must
26 be made not later than the 30th day after the date the abortion was
27 performed.~~

1 SECTION 7. Chapter 170, Health and Safety Code, is amended
2 by adding Subchapter B to read as follows:

3 SUBCHAPTER B. DISCRIMINATORY ABORTION PROHIBITED

4 Sec. 170.051. DEFINITION. In this subchapter, "disability"
5 means:

6 (1) having a physical or mental impairment that would
7 substantially limit one or more of an individual's major life
8 activities;

9 (2) an assessment referencing an individual's
10 impairment described by Subdivision (1); or

11 (3) a physical disfigurement, scoliosis, dwarfism,
12 Down syndrome, albinism, amelia, or any other type of physical,
13 mental, or intellectual abnormality or disease.

14 Sec. 170.052. DISCRIMINATORY ABORTION. A person may not:

15 (1) knowingly perform or attempt to perform on a
16 pregnant woman an abortion based on the race, ethnicity, sex, or
17 probability of diagnosis of or of having a disability of the woman's
18 preborn child; or

19 (2) use force or the threat of force to intentionally
20 injure or intimidate a person in order to coerce the performance or
21 attempted performance of an abortion based on the race, ethnicity,
22 sex, or probability of diagnosis of or of having a disability of the
23 woman's preborn child.

24 Sec. 170.053. CRIMINAL PENALTY. (a) A person who violates
25 Section 170.052 commits an offense. An offense under this
26 subsection is a Class A misdemeanor.

27 (b) A woman on whom an abortion is performed or attempted in

1 violation of Section 170.052 may not be prosecuted for a violation
2 of that section or for conspiracy to commit a violation of that
3 section.

4 Sec. 170.054. ADMINISTRATIVE PENALTY. A physician who
5 violates Section 170.052 engages in unprofessional conduct for
6 which the physician's license may be suspended or revoked under
7 Chapter 164, Occupations Code.

8 Sec. 170.055. CIVIL REMEDIES. (a) A civil action may be
9 brought against a person who violates Section 170.052 by:

10 (1) the woman on whom an abortion was performed or
11 attempted in violation of Section 170.052;

12 (2) the father of the preborn child for an abortion
13 performed or attempted on a pregnant woman in violation of Section
14 170.052, unless the woman's pregnancy resulted from the father's
15 criminal conduct; or

16 (3) a maternal grandparent of the preborn child for an
17 abortion performed or attempted in violation of Section 170.052 on
18 a pregnant woman who was less than 18 years of age at the time of the
19 violation, unless the woman's pregnancy resulted from the maternal
20 grandparent's criminal conduct.

21 (b) A person who brings an action under this section may
22 obtain:

23 (1) injunctive relief;

24 (2) damages incurred by the person, including:

25 (A) actual damages for all psychological,
26 emotional, and physical injuries resulting from the violation of
27 Section 170.052;

1 (B) court costs; and

2 (C) reasonable attorney's fees; or

3 (3) both injunctive relief and damages.

4 (c) An action for damages or injunctive relief under this
5 section must be filed:

6 (1) in a district court in the county in which the
7 woman on whom an abortion was performed or attempted in violation of
8 Section 170.052 resides; and

9 (2) not later than the sixth anniversary of the date
10 the abortion was performed or attempted in violation of Section
11 170.052.

12 (d) The damages and injunctive relief authorized by this
13 section are in addition to any other remedy available by law.

14 (e) A civil action under this section may not be brought
15 against a woman on whom an abortion is performed or attempted in
16 violation of Section 170.052.

17 SECTION 8. Section [171.002](#), Health and Safety Code, is
18 amended by adding Subdivision (3-a) to read as follows:

19 (3-a) "Preborn child" means an unborn child as defined
20 by Section [171.061](#).

21 SECTION 9. Section [171.012](#), Health and Safety Code, is
22 amended by amending Subsection (a) and adding Subsections (f) and
23 (g) to read as follows:

24 (a) Consent to an abortion is voluntary and informed only
25 if:

26 (1) the physician who is to perform the abortion
27 informs the pregnant woman on whom the abortion is to be performed

1 of:

2 (A) the physician's name;

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

6 (i) the risks of infection and hemorrhage;

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

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

13 (C) the probable gestational age of the preborn
14 [~~unborn~~] child at the time the abortion is to be performed; [~~and~~]

15 (D) the medical risks associated with carrying
16 the preborn child to term; and

17 (E) the state law prohibiting abortion of a
18 preborn child solely on the basis of the preborn child's race,
19 ethnicity, sex, or probability of diagnosis of or of having a
20 disability, as defined by Section 170.051;

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

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

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

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

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

7 (A) provides the pregnant woman with the printed
8 materials described by Section 171.014; and

9 (B) informs the pregnant woman that those
10 materials:

11 (i) have been provided by the Health and
12 Human Services Commission [~~Department of State Health Services~~];

13 (ii) are accessible on an Internet website
14 sponsored by the commission [~~department~~];

15 (iii) describe the preborn [~~unborn~~] child
16 and list agencies that offer alternatives to abortion; and

17 (iv) include a list of agencies that offer
18 sonogram services at no cost to the pregnant woman;

19 (4) before any sedative or anesthesia is administered
20 to the pregnant woman and at least 24 hours before the abortion or
21 at least two hours before the abortion if the pregnant woman waives
22 this requirement by certifying that she currently lives 100 miles
23 or more from the nearest abortion provider that is a facility
24 licensed under Chapter 245 or a facility that performs more than 50
25 abortions in any 12-month period:

26 (A) the physician who is to perform the abortion
27 or an agent of the physician who is also a sonographer certified by

1 a national registry of medical sonographers performs a sonogram on
2 the pregnant woman on whom the abortion is to be performed;

3 (B) the physician who is to perform the abortion
4 displays the sonogram images in a quality consistent with current
5 medical practice in a manner that the pregnant woman may view them;

6 (C) the physician who is to perform the abortion
7 provides, in a manner understandable to a layperson, a verbal
8 explanation of the results of the sonogram images, including a
9 medical description of the dimensions of the embryo or fetus, the
10 presence of cardiac activity, and the presence of external members
11 and internal organs; and

12 (D) the physician who is to perform the abortion
13 or an agent of the physician who is also a sonographer certified by
14 a national registry of medical sonographers makes audible the heart
15 auscultation for the pregnant woman to hear, if present, in a
16 quality consistent with current medical practice and provides, in a
17 manner understandable to a layperson, a simultaneous verbal
18 explanation of the heart auscultation;

19 (5) before receiving a sonogram under Subdivision
20 (4)(A) and before the abortion is performed and before any sedative
21 or anesthesia is administered, the pregnant woman completes and
22 certifies with her signature an election form that states as
23 follows:

24 "ABORTION AND SONOGRAM ELECTION

25 (1) THE INFORMATION AND PRINTED MATERIALS
26 DESCRIBED BY SECTIONS [171.012\(a\)\(1\)-\(3\)](#), TEXAS HEALTH
27 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO

1 ME.

2 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF
3 AN ABORTION.

4 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM
5 PRIOR TO RECEIVING AN ABORTION.

6 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW
7 THE SONOGRAM IMAGES.

8 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR
9 THE HEARTBEAT.

10 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO
11 HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I
12 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

13 I AM PREGNANT AS A RESULT OF A SEXUAL
14 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL
15 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT
16 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I
17 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK
18 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

19 I AM A MINOR AND OBTAINING AN ABORTION IN
20 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER
21 CHAPTER 33, TEXAS FAMILY CODE.

22 [~~_____ MY FETUS HAS AN IRREVERSIBLE MEDICAL~~
23 ~~CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE~~
24 ~~DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL~~
25 ~~FILE.~~]

26 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL
27 AND WITHOUT COERCION.

(8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER 245, TEXAS HEALTH AND SAFETY CODE, OR A FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER 245, TEXAS HEALTH AND SAFETY CODE, OR A FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS AFTER THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY PLACE OF RESIDENCE IS:_____.

SIGNATURE DATE";

(6) 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.

(f) If the pregnant woman's preborn child has been diagnosed with a life-threatening disability, the physician who is to perform the abortion shall, at least 24 hours before the abortion or at least two hours before the abortion if the pregnant woman waives this requirement by certifying that she currently lives 100 miles or more from the nearest abortion provider that is a facility

1 licensed under Chapter 245 or a facility that performs more than 50
2 abortions in any 12-month period:

3 (1) orally and in person, inform the pregnant woman of
4 the availability of perinatal palliative care, as that term is
5 defined by Section 161.702; and

6 (2) provide the pregnant woman with a written copy of:

7 (A) the perinatal palliative care informational
8 materials and list of the perinatal palliative care providers and
9 programs described by Section 161.703; and

10 (B) the perinatal palliative care certification
11 form described by Section 161.704.

12 (g) If a pregnant woman described by Subsection (f), after
13 receiving from the physician who is to perform the abortion the
14 perinatal palliative care informational materials and
15 certification form described by that subsection in the manner
16 required by that subsection, chooses to have an abortion instead of
17 continuing the pregnancy in perinatal palliative care, the
18 physician may perform the abortion only after:

19 (1) the pregnant woman signs the certification form;
20 and

21 (2) the physician places the signed certification form
22 in the pregnant woman's medical records.

23 SECTION 10. Section 171.0121, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion
26 begins, a copy of the signed, written certification received by the
27 physician under Section 171.012(a)(6) and, if applicable, under

1 Section 161.704 must be placed in the pregnant woman's medical
2 records.

3 (b) A copy of the signed, written certification required
4 under Sections 171.012(a)(5) and (6) and of any signed, written
5 certification required under Section 161.704 shall be retained by
6 the facility where the abortion is performed until:

7 (1) the seventh anniversary of the date the
8 certification [~~it~~] is signed; or

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

10 (A) the seventh anniversary of the date the
11 certification [~~it~~] is signed; or

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

13 SECTION 11. Section 171.0122(d), Health and Safety Code, is
14 amended to read as follows:

15 (d) A pregnant woman may choose not to receive the verbal
16 explanation of the results of the sonogram images under Section
17 171.012(a)(4)(C) if:

18 (1) the woman's pregnancy is a result of a sexual
19 assault, incest, or other violation of the Penal Code that has been
20 reported to law enforcement authorities or that has not been
21 reported because she has a reason that she declines to reveal
22 because she reasonably believes that to do so would put her at risk
23 of retaliation resulting in serious bodily injury; or

24 (2) the woman is a minor and obtaining an abortion in
25 accordance with judicial bypass procedures under Chapter 33, Family
26 Code [~~, or~~

27 [~~(3) the fetus has an irreversible medical condition~~

1 ~~or abnormality, as previously identified by reliable diagnostic~~
2 ~~procedures and documented in the woman's medical file].~~

3 SECTION 12. Section 171.014(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) The department shall publish informational materials
6 that include:

7 (1) the information required to be provided under
8 Sections 171.012(a)(1)(B), ~~and~~ (D), and (E) and (a)(2)(A), (B),
9 and (C); and

10 (2) the materials required by Sections 161.703,
11 171.015, and 171.016.

12 SECTION 13. Section 171.042, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 171.042. DEFINITION [~~DEFINITIONS~~]. In this
15 subchapter, ~~+~~

16 [~~(1)~~] "post-fertilization [~~Post-fertilization~~] age"
17 means the age of the preborn [~~unborn~~] child as calculated from the
18 fusion of a human spermatozoon with a human ovum.

19 [~~(2)~~] "~~Severe fetal abnormality~~" ~~has the meaning~~
20 ~~assigned by Section 285.202.~~

21 SECTION 14. Section 285.202(a), Health and Safety Code, is
22 amended to read as follows:

23 (a) In this section, "medical emergency" means~~+~~

24 [~~(1)~~] a condition exists that, in a physician's good
25 faith clinical judgment, complicates the medical condition of the
26 pregnant woman and necessitates the immediate abortion of her
27 pregnancy to avert her death or to avoid a serious risk of

1 substantial impairment of a major bodily function[~~7-07~~
2 [~~(2) the fetus has a severe fetal abnormality~~].

3 SECTION 15. Section 164.052(a), Occupations Code, is
4 amended to read as follows:

5 (a) A physician or an applicant for a license to practice
6 medicine commits a prohibited practice if that person:

7 (1) submits to the board a false or misleading
8 statement, document, or certificate in an application for a
9 license;

10 (2) presents to the board a license, certificate, or
11 diploma that was illegally or fraudulently obtained;

12 (3) commits fraud or deception in taking or passing an
13 examination;

14 (4) uses alcohol or drugs in an intemperate manner
15 that, in the board's opinion, could endanger a patient's life;

16 (5) commits unprofessional or dishonorable conduct
17 that is likely to deceive or defraud the public, as provided by
18 Section 164.053, or injure the public;

19 (6) uses an advertising statement that is false,
20 misleading, or deceptive;

21 (7) advertises professional superiority or the
22 performance of professional service in a superior manner if that
23 advertising is not readily subject to verification;

24 (8) purchases, sells, barter, or uses, or offers to
25 purchase, sell, barter, or use, a medical degree, license,
26 certificate, or diploma, or a transcript of a license, certificate,
27 or diploma in or incident to an application to the board for a

1 license to practice medicine;

2 (9) alters, with fraudulent intent, a medical license,
3 certificate, or diploma, or a transcript of a medical license,
4 certificate, or diploma;

5 (10) uses a medical license, certificate, or diploma,
6 or a transcript of a medical license, certificate, or diploma that
7 has been:

8 (A) fraudulently purchased or issued;

9 (B) counterfeited; or

10 (C) materially altered;

11 (11) impersonates or acts as proxy for another person
12 in an examination required by this subtitle for a medical license;

13 (12) engages in conduct that subverts or attempts to
14 subvert an examination process required by this subtitle for a
15 medical license;

16 (13) impersonates a physician or permits another to
17 use the person's license or certificate to practice medicine in
18 this state;

19 (14) directly or indirectly employs a person whose
20 license to practice medicine has been suspended, canceled, or
21 revoked;

22 (15) associates in the practice of medicine with a
23 person:

24 (A) whose license to practice medicine has been
25 suspended, canceled, or revoked; or

26 (B) who has been convicted of the unlawful
27 practice of medicine in this state or elsewhere;

1 (16) performs or procures a criminal abortion, aids or
2 abets in the procuring of a criminal abortion, attempts to perform
3 or procure a criminal abortion, or attempts to aid or abet the
4 performance or procurement of a criminal abortion;

5 (17) directly or indirectly aids or abets the practice
6 of medicine by a person, partnership, association, or corporation
7 that is not licensed to practice medicine by the board;

8 (18) performs an abortion on a woman who is pregnant
9 with a viable preborn ~~[unborn]~~ child during the third trimester of
10 the pregnancy unless [+

11 [~~(A)~~] the abortion is necessary due to a medical
12 emergency, as defined by Section 171.002, Health and Safety Code
13 ~~[to prevent the death of the woman,~~

14 ~~(B) the viable unborn child has a severe,~~
15 ~~irreversible brain impairment, or~~

16 ~~(C) the woman is diagnosed with a significant~~
17 ~~likelihood of suffering imminent severe, irreversible brain damage~~
18 ~~or imminent severe, irreversible paralysis];~~

19 (19) performs an abortion on an unemancipated minor
20 without the written consent of the child's parent, managing
21 conservator, or legal guardian or without a court order, as
22 provided by Section 33.003 or 33.004, Family Code, unless the
23 abortion is necessary due to a medical emergency, as defined by
24 Section 171.002, Health and Safety Code;

25 (20) otherwise performs an abortion on an
26 unemancipated minor in violation of Chapter 33, Family Code; ~~[or]~~

27 (21) performs or induces or attempts to perform or

1 induce an abortion in violation of Subchapter C, F, or G, Chapter
2 [171](#), Health and Safety Code; or

3 (22) performs or attempts to perform an abortion or
4 engages in other conduct in violation of Section 170.052, Health
5 and Safety Code.

6 SECTION 16. Section [164.055](#)(b), Occupations Code, is
7 amended to read as follows:

8 (b) The sanctions provided by Subsection (a) are in addition
9 to any other grounds for refusal to admit persons to examination
10 under this subtitle or to issue a license or renew a license to
11 practice medicine under this subtitle. The criminal penalties
12 provided by Section [165.152](#) do not apply to a violation of Section
13 [170.002](#) or 170.052, Health and Safety Code, or Subchapter C, F, or
14 G, Chapter [171](#), Health and Safety Code.

15 SECTION 17. The following provisions of the Health and
16 Safety Code are repealed:

- 17 (1) Section [171.046](#)(c); and
18 (2) Sections [285.202](#)(a-1) and (a-2).

19 SECTION 18. Not later than December 1, 2019:

- 20 (1) the Health and Human Services Commission shall:
21 (A) develop the perinatal palliative care
22 informational materials, list of perinatal palliative care
23 providers and programs, and perinatal palliative care
24 certification form required by Subchapter X, Chapter [161](#), Health
25 and Safety Code, as added by this Act; and
26 (B) update any forms and informational materials
27 under Subchapter B, Chapter [171](#), Health and Safety Code, as amended

1 by this Act; and

2 (2) the executive commissioner of the Health and Human
3 Services Commission shall adopt any rules necessary to implement
4 Subchapter X, Chapter 161, Health and Safety Code, as added by this
5 Act, and Subchapter B, Chapter 171, Health and Safety Code, as
6 amended by this Act.

7 SECTION 19. (a) Subchapter X, Chapter 161, Health and
8 Safety Code, as added by this Act, applies only to a diagnosis of a
9 life-threatening disability of a pregnant woman's preborn child
10 made on or after January 1, 2020.

11 (b) The changes in law made by this Act to Chapters 170 and
12 171, Health and Safety Code, and Chapter 164, Occupations Code,
13 apply only to an abortion performed or other conduct that occurred
14 on or after January 1, 2020. An abortion performed or other conduct
15 that occurred before that date is governed by the law in effect
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 20. It is the intent of the legislature that every
19 provision, section, subsection, sentence, clause, phrase, or word
20 in this Act, and every application of the provisions in this Act to
21 each person or entity, are severable from each other. If any
22 application of any provision in this Act to any person, group of
23 persons, or circumstances is found by a court to be invalid for any
24 reason, the remaining applications of that provision to all other
25 persons and circumstances shall be severed and may not be affected.

26 SECTION 21. This Act takes effect September 1, 2019.