

1-1 By: Hancock, et al. S.B. No. 1033  
 1-2 (In the Senate - Filed February 22, 2019; March 7, 2019,  
 1-3 read first time and referred to Committee on Health & Human  
 1-4 Services; April 24, 2019, reported favorably by the following  
 1-5 vote: Yeas 6, Nays 3; April 24, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14		X		
1-15		X		
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to information regarding perinatal palliative care and  
 1-20 prohibiting discriminatory abortions; creating an administrative  
 1-21 penalty, a civil remedy, and a criminal offense.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. This Act may be cited as the Preborn  
 1-24 Nondiscrimination Act.

1-25 SECTION 2. The legislature finds that:

1-26 (1) Texas has a compelling state interest in  
 1-27 protecting all Texans from discrimination based on sex, race, and  
 1-28 disability; and

1-29 (2) Texas enforces prohibitions against  
 1-30 discrimination based on sex, race, and disability in various areas,  
 1-31 including housing, employment, education, insurance, and health  
 1-32 program and service provision.

1-33 SECTION 3. Chapter 161, Health and Safety Code, is amended  
 1-34 by adding Subchapter X to read as follows:

1-35 SUBCHAPTER X. PERINATAL PALLIATIVE CARE

1-36 Sec. 161.701. PURPOSE OF SUBCHAPTER. The purpose of this  
 1-37 subchapter is to ensure that:

1-38 (1) a pregnant woman who receives a diagnosis of a  
 1-39 life-threatening disability of the woman's preborn child is  
 1-40 informed of the availability of perinatal palliative care; and

1-41 (2) a pregnant woman who chooses abortion after  
 1-42 receiving a diagnosis of a life-threatening disability of the  
 1-43 woman's preborn child makes a fully informed decision.

1-44 Sec. 161.702. DEFINITION. In this subchapter, "perinatal  
 1-45 palliative care" means the provision of comprehensive, supportive  
 1-46 care to reduce the suffering of a pregnant woman, her preborn child,  
 1-47 and her family, from diagnosis of the preborn child's  
 1-48 life-threatening disability through the delivery and possible  
 1-49 death of the child as a result of the life-threatening disability.  
 1-50 The term includes medical, social, and mental health care,  
 1-51 including counseling and health care provided by maternal-fetal  
 1-52 medical specialists, obstetricians, neonatologists, anesthesia  
 1-53 specialists, specialty nurses, clergy, social workers, and other  
 1-54 individuals focused on alleviating fear and pain and ensuring the  
 1-55 pregnant woman, her preborn child, and her family experience a  
 1-56 supportive environment.

1-57 Sec. 161.703. PERINATAL PALLIATIVE CARE INFORMATIONAL  
 1-58 MATERIALS. (a) The commission shall develop perinatal palliative  
 1-59 care informational materials and post the materials on the  
 1-60 commission's Internet website. The materials must include:

1-61 (1) a description of the health care and other

2-1 services available through perinatal palliative care; and  
 2-2 (2) information about medical assistance benefits  
 2-3 that may be available for prenatal care, childbirth, and perinatal  
 2-4 palliative care.

2-5 (b) The commission shall develop, regularly update, and  
 2-6 publish a geographically indexed list of all perinatal palliative  
 2-7 care providers and programs in this state. The commission may  
 2-8 include perinatal palliative care providers and programs in other  
 2-9 states that provide care to residents of this state but may not  
 2-10 include an abortion provider, as defined by Section 171.002. The  
 2-11 commission shall post the list of perinatal palliative care  
 2-12 providers and programs, including contact information, on the  
 2-13 commission's Internet website and note the providers and programs  
 2-14 that provide services free of charge.

2-15 Sec. 161.704. PERINATAL PALLIATIVE CARE CERTIFICATION  
 2-16 FORM. The commission shall develop a form on which a pregnant woman  
 2-17 certifies that she has received the perinatal palliative care  
 2-18 informational materials and list of the perinatal palliative care  
 2-19 providers and programs described by Section 161.703.

2-20 Sec. 161.705. HEALTH CARE PROVIDER DUTIES ON DIAGNOSIS OF  
 2-21 PREBORN CHILD'S LIFE-THREATENING DISABILITY. A health care  
 2-22 provider who diagnoses a pregnant woman's preborn child as having a  
 2-23 life-threatening disability shall, at the time of the diagnosis:

2-24 (1) provide the pregnant woman with a written copy of:  
 2-25 (A) the perinatal palliative care informational  
 2-26 materials and list of the perinatal palliative care providers and  
 2-27 programs described by Section 161.703; and

2-28 (B) the perinatal palliative care certification  
 2-29 form described by Section 161.704; and

2-30 (2) obtain from the pregnant woman the signed  
 2-31 perinatal palliative care certification form and place the form in  
 2-32 the pregnant woman's medical records.

2-33 Sec. 161.706. EXCEPTION. (a) A health care provider is  
 2-34 not required to provide the perinatal palliative care informational  
 2-35 materials or perinatal palliative care certification form under  
 2-36 this subchapter if the health care provider verifies the pregnant  
 2-37 woman's medical record contains a signed perinatal palliative care  
 2-38 certification form for that pregnancy as required under Section  
 2-39 161.705(2).

2-40 (b) This section does not affect a health care provider's  
 2-41 duty to provide the perinatal palliative care informational  
 2-42 materials or perinatal palliative care certification form  
 2-43 described by this subchapter as required under Subchapter B,  
 2-44 Chapter 171.

2-45 SECTION 4. Chapter 170, Health and Safety Code, is amended  
 2-46 by designating Sections 170.001 and 170.002 as Subchapter A and  
 2-47 adding a subchapter heading to read as follows:

2-48 SUBCHAPTER A. GENERAL PROVISIONS; POST-VIABILITY ABORTION  
 2-49 PROHIBITED

2-50 SECTION 5. Section 170.001(3), Health and Safety Code, is  
 2-51 amended to read as follows:

2-52 (3) "Viable" means the stage of fetal development  
 2-53 when, in the medical judgment of the attending physician based on  
 2-54 the particular facts of the case, a preborn [an unborn] child  
 2-55 possesses the capacity to live outside its mother's womb after its  
 2-56 premature birth from any cause. The term does not include a fetus  
 2-57 whose biparietal diameter is less than 60 millimeters.

2-58 SECTION 6. Section 170.002, Health and Safety Code, is  
 2-59 amended to read as follows:

2-60 Sec. 170.002. PROHIBITED ACTS; EXEMPTION. (a) Except as  
 2-61 provided by Subsection (b), a person may not intentionally or  
 2-62 knowingly perform an abortion on a woman who is pregnant with a  
 2-63 viable preborn [unborn] child during the third trimester of the  
 2-64 pregnancy.

2-65 (b) Subsection (a) does not prohibit a person from  
 2-66 performing an abortion if at the time of the abortion the person is  
 2-67 a physician and concludes in good faith according to the  
 2-68 physician's best medical judgment that[+]

2-69 [(-) the fetus is not a viable fetus and the pregnancy

3-1 ~~is not in the third trimester,~~  
 3-2 [~~(2)~~] the abortion is necessary due to a medical  
 3-3 emergency, as defined by Section 171.002 [~~to prevent the death or a~~  
 3-4 ~~substantial risk of serious impairment to the physical or mental~~  
 3-5 ~~health of the woman; or~~

3-6 [~~(3) the fetus has a severe and irreversible~~  
 3-7 ~~abnormality, identified by reliable diagnostic procedures].~~

3-8 (c) A physician who performs an abortion that, according to  
 3-9 the physician's best medical judgment at the time of the abortion,  
 3-10 is to abort a viable preborn [~~unborn~~] child during the third  
 3-11 trimester of the pregnancy shall certify in writing to the  
 3-12 commission, on a form prescribed by the commission, the medical  
 3-13 indications supporting the physician's judgment that the abortion  
 3-14 was authorized by Subsection (b) [~~(b)(2) or (3)~~]. ~~If the physician~~  
 3-15 ~~certifies the abortion was authorized by Subsection (b)(3), the~~  
 3-16 ~~physician shall certify in writing on the form the fetal~~  
 3-17 ~~abnormality identified by the physician].~~ The certification must  
 3-18 be made not later than the 30th day after the date the abortion was  
 3-19 performed.

3-20 SECTION 7. Chapter 170, Health and Safety Code, is amended  
 3-21 by adding Subchapter B to read as follows:

3-22 SUBCHAPTER B. DISCRIMINATORY ABORTION PROHIBITED

3-23 Sec. 170.051. DEFINITION. In this subchapter, "disability"  
 3-24 means:

3-25 (1) having a physical or mental impairment that would  
 3-26 substantially limit one or more of an individual's major life  
 3-27 activities;

3-28 (2) an assessment referencing an individual's  
 3-29 impairment described by Subdivision (1); or

3-30 (3) a physical disfigurement, scoliosis, dwarfism,  
 3-31 Down syndrome, albinism, amelia, or any other type of physical,  
 3-32 mental, or intellectual abnormality or disease.

3-33 Sec. 170.052. DISCRIMINATORY ABORTION. A person may not:

3-34 (1) knowingly perform or attempt to perform on a  
 3-35 pregnant woman an abortion based on the race, ethnicity, sex, or  
 3-36 probability of diagnosis of or of having a disability of the woman's  
 3-37 preborn child; or

3-38 (2) use force or the threat of force to intentionally  
 3-39 injure or intimidate a person in order to coerce the performance or  
 3-40 attempted performance of an abortion based on the race, ethnicity,  
 3-41 sex, or probability of diagnosis of or of having a disability of the  
 3-42 woman's preborn child.

3-43 Sec. 170.053. CRIMINAL PENALTY. (a) A person who violates  
 3-44 Section 170.052 commits an offense. An offense under this  
 3-45 subsection is a Class A misdemeanor.

3-46 (b) A woman on whom an abortion is performed or attempted in  
 3-47 violation of Section 170.052 may not be prosecuted for a violation  
 3-48 of that section or for conspiracy to commit a violation of that  
 3-49 section.

3-50 Sec. 170.054. ADMINISTRATIVE PENALTY. A physician who  
 3-51 violates Section 170.052 engages in unprofessional conduct for  
 3-52 which the physician's license may be suspended or revoked under  
 3-53 Chapter 164, Occupations Code.

3-54 Sec. 170.055. CIVIL REMEDIES. (a) A civil action may be  
 3-55 brought against a person who violates Section 170.052 by:

3-56 (1) the woman on whom an abortion was performed or  
 3-57 attempted in violation of Section 170.052;

3-58 (2) the father of the preborn child for an abortion  
 3-59 performed or attempted on a pregnant woman in violation of Section  
 3-60 170.052, unless the woman's pregnancy resulted from the father's  
 3-61 criminal conduct; or

3-62 (3) a maternal grandparent of the preborn child for an  
 3-63 abortion performed or attempted in violation of Section 170.052 on  
 3-64 a pregnant woman who was less than 18 years of age at the time of the  
 3-65 violation, unless the woman's pregnancy resulted from the maternal  
 3-66 grandparent's criminal conduct.

3-67 (b) A person who brings an action under this section may  
 3-68 obtain:

3-69 (1) injunctive relief;

4-1 (2) damages incurred by the person, including:  
4-2 (A) actual damages for all psychological,  
4-3 emotional, and physical injuries resulting from the violation of  
4-4 Section 170.052;

4-5 (B) court costs; and  
4-6 (C) reasonable attorney's fees; or  
4-7 (3) both injunctive relief and damages.

4-8 (c) An action for damages or injunctive relief under this  
4-9 section must be filed:

4-10 (1) in a district court in the county in which the  
4-11 woman on whom an abortion was performed or attempted in violation of  
4-12 Section 170.052 resides; and

4-13 (2) not later than the sixth anniversary of the date  
4-14 the abortion was performed or attempted in violation of Section  
4-15 170.052.

4-16 (d) The damages and injunctive relief authorized by this  
4-17 section are in addition to any other remedy available by law.

4-18 (e) A civil action under this section may not be brought  
4-19 against a woman on whom an abortion is performed or attempted in  
4-20 violation of Section 170.052.

4-21 SECTION 8. Section 171.002, Health and Safety Code, is  
4-22 amended by adding Subdivision (3-a) to read as follows:

4-23 (3-a) "Preborn child" means an unborn child as defined  
4-24 by Section 171.061.

4-25 SECTION 9. Section 171.012, Health and Safety Code, is  
4-26 amended by amending Subsection (a) and adding Subsections (f) and  
4-27 (g) to read as follows:

4-28 (a) Consent to an abortion is voluntary and informed only  
4-29 if:

4-30 (1) the physician who is to perform the abortion  
4-31 informs the pregnant woman on whom the abortion is to be performed  
4-32 of:

4-33 (A) the physician's name;

4-34 (B) the particular medical risks associated with  
4-35 the particular abortion procedure to be employed, including, when  
4-36 medically accurate:

4-37 (i) the risks of infection and hemorrhage;

4-38 (ii) the potential danger to a subsequent  
4-39 pregnancy and of infertility; and

4-40 (iii) the possibility of increased risk of  
4-41 breast cancer following an induced abortion and the natural  
4-42 protective effect of a completed pregnancy in avoiding breast  
4-43 cancer;

4-44 (C) the probable gestational age of the preborn  
4-45 [unborn] child at the time the abortion is to be performed; [and]

4-46 (D) the medical risks associated with carrying  
4-47 the preborn child to term; and

4-48 (E) the state law prohibiting abortion of a  
4-49 preborn child solely on the basis of the preborn child's race,  
4-50 ethnicity, sex, or probability of diagnosis of or of having a  
4-51 disability, as defined by Section 170.051;

4-52 (2) the physician who is to perform the abortion or the  
4-53 physician's agent informs the pregnant woman that:

4-54 (A) medical assistance benefits may be available  
4-55 for prenatal care, childbirth, and neonatal care;

4-56 (B) the father is liable for assistance in the  
4-57 support of the child without regard to whether the father has  
4-58 offered to pay for the abortion; and

4-59 (C) public and private agencies provide  
4-60 pregnancy prevention counseling and medical referrals for  
4-61 obtaining pregnancy prevention medications or devices, including  
4-62 emergency contraception for victims of rape or incest;

4-63 (3) the physician who is to perform the abortion or the  
4-64 physician's agent:

4-65 (A) provides the pregnant woman with the printed  
4-66 materials described by Section 171.014; and

4-67 (B) informs the pregnant woman that those  
4-68 materials:

4-69 (i) have been provided by the Health and

5-1 Human Services Commission [~~Department of State Health Services~~];  
 5-2 (ii) are accessible on an Internet website  
 5-3 sponsored by the commission [~~department~~];  
 5-4 (iii) describe the preborn [~~unborn~~] child  
 5-5 and list agencies that offer alternatives to abortion; and  
 5-6 (iv) include a list of agencies that offer  
 5-7 sonogram services at no cost to the pregnant woman;  
 5-8 (4) before any sedative or anesthesia is administered  
 5-9 to the pregnant woman and at least 24 hours before the abortion or  
 5-10 at least two hours before the abortion if the pregnant woman waives  
 5-11 this requirement by certifying that she currently lives 100 miles  
 5-12 or more from the nearest abortion provider that is a facility  
 5-13 licensed under Chapter 245 or a facility that performs more than 50  
 5-14 abortions in any 12-month period:

5-15 (A) the physician who is to perform the abortion  
 5-16 or an agent of the physician who is also a sonographer certified by  
 5-17 a national registry of medical sonographers performs a sonogram on  
 5-18 the pregnant woman on whom the abortion is to be performed;

5-19 (B) the physician who is to perform the abortion  
 5-20 displays the sonogram images in a quality consistent with current  
 5-21 medical practice in a manner that the pregnant woman may view them;

5-22 (C) the physician who is to perform the abortion  
 5-23 provides, in a manner understandable to a layperson, a verbal  
 5-24 explanation of the results of the sonogram images, including a  
 5-25 medical description of the dimensions of the embryo or fetus, the  
 5-26 presence of cardiac activity, and the presence of external members  
 5-27 and internal organs; and

5-28 (D) the physician who is to perform the abortion  
 5-29 or an agent of the physician who is also a sonographer certified by  
 5-30 a national registry of medical sonographers makes audible the heart  
 5-31 auscultation for the pregnant woman to hear, if present, in a  
 5-32 quality consistent with current medical practice and provides, in a  
 5-33 manner understandable to a layperson, a simultaneous verbal  
 5-34 explanation of the heart auscultation;

5-35 (5) before receiving a sonogram under Subdivision  
 5-36 (4)(A) and before the abortion is performed and before any sedative  
 5-37 or anesthesia is administered, the pregnant woman completes and  
 5-38 certifies with her signature an election form that states as  
 5-39 follows:

5-40 "ABORTION AND SONOGRAM ELECTION

5-41 (1) THE INFORMATION AND PRINTED MATERIALS  
 5-42 DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH  
 5-43 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO  
 5-44 ME.

5-45 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF  
 5-46 AN ABORTION.

5-47 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM  
 5-48 PRIOR TO RECEIVING AN ABORTION.

5-49 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW  
 5-50 THE SONOGRAM IMAGES.

5-51 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR  
 5-52 THE HEARTBEAT.

5-53 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO  
 5-54 HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I  
 5-55 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

5-56 \_\_\_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL  
 5-57 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL  
 5-58 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT  
 5-59 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I  
 5-60 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK  
 5-61 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

5-62 \_\_\_\_\_ I AM A MINOR AND OBTAINING AN ABORTION IN  
 5-63 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER  
 5-64 CHAPTER 33, TEXAS FAMILY CODE.

5-65 [~~\_\_\_\_\_ MY FETUS HAS AN IRREVERSIBLE MEDICAL  
 5-66 CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE  
 5-67 DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL  
 5-68 FILE.~~]

5-69 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL

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

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

(2) provide the pregnant woman with a written copy of: (A) the perinatal palliative care informational materials and list of the perinatal palliative care providers and programs described by Section 161.703; and

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

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

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

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

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

Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion begins, a copy of the signed, written certification received by the physician under Section 171.012(a)(6) and, if applicable, under Section 161.704 must be placed in the pregnant woman's medical records.

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

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

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

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

(B) the woman's 21st birthday.

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

7-1 (d) A pregnant woman may choose not to receive the verbal  
7-2 explanation of the results of the sonogram images under Section  
7-3 171.012(a)(4)(C) if:

7-4 (1) the woman's pregnancy is a result of a sexual  
7-5 assault, incest, or other violation of the Penal Code that has been  
7-6 reported to law enforcement authorities or that has not been  
7-7 reported because she has a reason that she declines to reveal  
7-8 because she reasonably believes that to do so would put her at risk  
7-9 of retaliation resulting in serious bodily injury; or

7-10 (2) the woman is a minor and obtaining an abortion in  
7-11 accordance with judicial bypass procedures under Chapter 33, Family  
7-12 Code[~~+~~or

7-13 [~~(3) the fetus has an irreversible medical condition~~  
7-14 ~~or abnormality, as previously identified by reliable diagnostic~~  
7-15 ~~procedures and documented in the woman's medical file].~~

7-16 SECTION 12. Section 171.014(a), Health and Safety Code, is  
7-17 amended to read as follows:

7-18 (a) The department shall publish informational materials  
7-19 that include:

7-20 (1) the information required to be provided under  
7-21 Sections 171.012(a)(1)(B), ~~[and]~~ (D), and (E) and (a)(2)(A), (B),  
7-22 and (C); and

7-23 (2) the materials required by Sections 161.703,  
7-24 171.015, and 171.016.

7-25 SECTION 13. Section 171.042, Health and Safety Code, is  
7-26 amended to read as follows:

7-27 Sec. 171.042. DEFINITION [~~DEFINITIONS~~]. In this  
7-28 subchapter, ~~[+~~

7-29 [~~(1)~~] "post-fertilization [~~Post-fertilization~~] age"  
7-30 means the age of the preborn [~~unborn~~] child as calculated from the  
7-31 fusion of a human spermatozoon with a human ovum.

7-32 [~~(2) "Severe fetal abnormality" has the meaning~~  
7-33 ~~assigned by Section 285.202.~~]

7-34 SECTION 14. Section 285.202(a), Health and Safety Code, is  
7-35 amended to read as follows:

7-36 (a) In this section, "medical emergency" means[~~+~~

7-37 [~~(1)~~] a condition exists that, in a physician's good  
7-38 faith clinical judgment, complicates the medical condition of the  
7-39 pregnant woman and necessitates the immediate abortion of her  
7-40 pregnancy to avert her death or to avoid a serious risk of  
7-41 substantial impairment of a major bodily function[~~+~~or

7-42 [~~(2) the fetus has a severe fetal abnormality~~].

7-43 SECTION 15. Section 164.052(a), Occupations Code, is  
7-44 amended to read as follows:

7-45 (a) A physician or an applicant for a license to practice  
7-46 medicine commits a prohibited practice if that person:

7-47 (1) submits to the board a false or misleading  
7-48 statement, document, or certificate in an application for a  
7-49 license;

7-50 (2) presents to the board a license, certificate, or  
7-51 diploma that was illegally or fraudulently obtained;

7-52 (3) commits fraud or deception in taking or passing an  
7-53 examination;

7-54 (4) uses alcohol or drugs in an intemperate manner  
7-55 that, in the board's opinion, could endanger a patient's life;

7-56 (5) commits unprofessional or dishonorable conduct  
7-57 that is likely to deceive or defraud the public, as provided by  
7-58 Section 164.053, or injure the public;

7-59 (6) uses an advertising statement that is false,  
7-60 misleading, or deceptive;

7-61 (7) advertises professional superiority or the  
7-62 performance of professional service in a superior manner if that  
7-63 advertising is not readily subject to verification;

7-64 (8) purchases, sells, barter, or uses, or offers to  
7-65 purchase, sell, barter, or use, a medical degree, license,  
7-66 certificate, or diploma, or a transcript of a license, certificate,  
7-67 or diploma in or incident to an application to the board for a  
7-68 license to practice medicine;

7-69 (9) alters, with fraudulent intent, a medical license,

8-1 certificate, or diploma, or a transcript of a medical license,  
8-2 certificate, or diploma;  
8-3 (10) uses a medical license, certificate, or diploma,  
8-4 or a transcript of a medical license, certificate, or diploma that  
8-5 has been:  
8-6 (A) fraudulently purchased or issued;  
8-7 (B) counterfeited; or  
8-8 (C) materially altered;  
8-9 (11) impersonates or acts as proxy for another person  
8-10 in an examination required by this subtitle for a medical license;  
8-11 (12) engages in conduct that subverts or attempts to  
8-12 subvert an examination process required by this subtitle for a  
8-13 medical license;  
8-14 (13) impersonates a physician or permits another to  
8-15 use the person's license or certificate to practice medicine in  
8-16 this state;  
8-17 (14) directly or indirectly employs a person whose  
8-18 license to practice medicine has been suspended, canceled, or  
8-19 revoked;  
8-20 (15) associates in the practice of medicine with a  
8-21 person:  
8-22 (A) whose license to practice medicine has been  
8-23 suspended, canceled, or revoked; or  
8-24 (B) who has been convicted of the unlawful  
8-25 practice of medicine in this state or elsewhere;  
8-26 (16) performs or procures a criminal abortion, aids or  
8-27 abets in the procuring of a criminal abortion, attempts to perform  
8-28 or procure a criminal abortion, or attempts to aid or abet the  
8-29 performance or procurement of a criminal abortion;  
8-30 (17) directly or indirectly aids or abets the practice  
8-31 of medicine by a person, partnership, association, or corporation  
8-32 that is not licensed to practice medicine by the board;  
8-33 (18) performs an abortion on a woman who is pregnant  
8-34 with a viable preborn ~~[unborn]~~ child during the third trimester of  
8-35 the pregnancy unless ~~+~~  
8-36 ~~[(A)]~~ the abortion is necessary due to a medical  
8-37 emergency, as defined by Section 171.002, Health and Safety Code  
8-38 ~~[to prevent the death of the woman;~~  
8-39 ~~[(B) the viable unborn child has a severe,~~  
8-40 ~~irreversible brain impairment; or~~  
8-41 ~~[(C) the woman is diagnosed with a significant~~  
8-42 ~~likelihood of suffering imminent severe, irreversible brain damage~~  
8-43 ~~or imminent severe, irreversible paralysis];~~  
8-44 (19) performs an abortion on an unemancipated minor  
8-45 without the written consent of the child's parent, managing  
8-46 conservator, or legal guardian or without a court order, as  
8-47 provided by Section 33.003 or 33.004, Family Code, unless the  
8-48 abortion is necessary due to a medical emergency, as defined by  
8-49 Section 171.002, Health and Safety Code;  
8-50 (20) otherwise performs an abortion on an  
8-51 unemancipated minor in violation of Chapter 33, Family Code; ~~[or]~~  
8-52 (21) performs or induces or attempts to perform or  
8-53 induce an abortion in violation of Subchapter C, F, or G, Chapter  
8-54 171, Health and Safety Code; or  
8-55 (22) performs or attempts to perform an abortion or  
8-56 engages in other conduct in violation of Section 170.052, Health  
8-57 and Safety Code.  
8-58 SECTION 16. Section 164.055(b), Occupations Code, is  
8-59 amended to read as follows:  
8-60 (b) The sanctions provided by Subsection (a) are in addition  
8-61 to any other grounds for refusal to admit persons to examination  
8-62 under this subtitle or to issue a license or renew a license to  
8-63 practice medicine under this subtitle. The criminal penalties  
8-64 provided by Section 165.152 do not apply to a violation of Section  
8-65 170.002 or 170.052, Health and Safety Code, or Subchapter C, F, or  
8-66 G, Chapter 171, Health and Safety Code.  
8-67 SECTION 17. The following provisions of the Health and  
8-68 Safety Code are repealed:  
8-69 (1) Section 171.046(c); and



9-1 (2) Sections 285.202(a-1) and (a-2).

9-2 SECTION 18. Not later than December 1, 2019:

9-3 (1) the Health and Human Services Commission shall:

9-4 (A) develop the perinatal palliative care  
9-5 informational materials, list of perinatal palliative care  
9-6 providers and programs, and perinatal palliative care  
9-7 certification form required by Subchapter X, Chapter 161, Health  
9-8 and Safety Code, as added by this Act; and

9-9 (B) update any forms and informational materials  
9-10 under Subchapter B, Chapter 171, Health and Safety Code, as amended  
9-11 by this Act; and

9-12 (2) the executive commissioner of the Health and Human  
9-13 Services Commission shall adopt any rules necessary to implement  
9-14 Subchapter X, Chapter 161, Health and Safety Code, as added by this  
9-15 Act, and Subchapter B, Chapter 171, Health and Safety Code, as  
9-16 amended by this Act.

9-17 SECTION 19. (a) Subchapter X, Chapter 161, Health and  
9-18 Safety Code, as added by this Act, applies only to a diagnosis of a  
9-19 life-threatening disability of a pregnant woman's preborn child  
9-20 made on or after January 1, 2020.

9-21 (b) The changes in law made by this Act to Chapters 170 and  
9-22 171, Health and Safety Code, and Chapter 164, Occupations Code,  
9-23 apply only to an abortion performed or other conduct that occurred  
9-24 on or after January 1, 2020. An abortion performed or other conduct  
9-25 that occurred before that date is governed by the law in effect  
9-26 immediately before the effective date of this Act, and that law is  
9-27 continued in effect for that purpose.

9-28 SECTION 20. It is the intent of the legislature that every  
9-29 provision, section, subsection, sentence, clause, phrase, or word  
9-30 in this Act, and every application of the provisions in this Act to  
9-31 each person or entity, are severable from each other. If any  
9-32 application of any provision in this Act to any person, group of  
9-33 persons, or circumstances is found by a court to be invalid for any  
9-34 reason, the remaining applications of that provision to all other  
9-35 persons and circumstances shall be severed and may not be affected.

9-36 SECTION 21. This Act takes effect September 1, 2019.

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