

By: Lucio, et al.

S.B. No. 4

A BILL TO BE ENTITLED

AN ACT

1
2 relating to abortion complication reporting and the regulation of
3 drug-induced abortion procedures, providers, and facilities;
4 creating a criminal offense.

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

6 SECTION 1. The legislature finds that:

7 (1) this state has an interest in protecting the
8 health and welfare of every woman considering a drug-induced
9 abortion;

10 (2) the use of Mifeprex or mifepristone presents
11 significant medical complications including, but not limited to,
12 uterine hemorrhage, viral infections, abdominal pain, cramping,
13 vomiting, headache, fatigue, and pelvic inflammatory disease; and

14 (3) the failure rate and risk of complications
15 increases with advancing gestational age.

16 SECTION 2. Sections 171.006(a) and (b), Health and Safety
17 Code, as added by Chapter 4 (H.B. 13), Acts of the 85th Legislature,
18 1st Called Session, 2017, are amended to read as follows:

19 (a) In this section, "abortion complication" or "adverse
20 event" means any harmful event or adverse outcome with respect to a
21 patient related to an abortion that is performed or induced on the
22 patient and that is diagnosed or treated by a health care
23 practitioner or at a health care facility and includes:

24 (1) shock;

- 1 (2) uterine perforation;
- 2 (3) cervical laceration;
- 3 (4) hemorrhage;
- 4 (5) aspiration or allergic response;
- 5 (6) infection;
- 6 (7) sepsis;
- 7 (8) death of the patient;
- 8 (9) incomplete abortion;
- 9 (10) damage to the uterus; [~~or~~]
- 10 (11) an infant born alive after the abortion;
- 11 (12) blood clots resulting in pulmonary embolism or
- 12 deep vein thrombosis;
- 13 (13) failure to actually terminate the pregnancy;
- 14 (14) pelvic inflammatory disease;
- 15 (15) endometritis;
- 16 (16) missed ectopic pregnancy;
- 17 (17) cardiac arrest;
- 18 (18) respiratory arrest;
- 19 (19) renal failure;
- 20 (20) metabolic disorder;
- 21 (21) embolism;
- 22 (22) coma;
- 23 (23) placenta previa in subsequent pregnancies;
- 24 (24) preterm delivery in subsequent pregnancies;
- 25 (25) fluid accumulation in the abdomen;
- 26 (26) hemolytic reaction resulting from the
- 27 administration of ABO-incompatible blood or blood products;

1 (27) adverse reactions to anesthesia or other drugs;

2 or

3 (28) any other adverse event as defined by the United
4 States Food and Drug Administration's criteria provided by the
5 MedWatch Reporting System.

6 (b) The reporting requirements of this section apply only
7 to:

8 (1) a physician who:

9 (A) performs or induces at an abortion facility
10 an abortion that results in an abortion complication diagnosed or
11 treated by that physician; or

12 (B) diagnoses or treats [~~at an abortion facility~~]
13 an abortion complication that is the result of an abortion
14 performed or induced by another physician [~~at the facility~~]; or

15 (2) a health care facility that is a hospital,
16 abortion facility, freestanding emergency medical care facility,
17 or health care facility that provides emergency medical care, as
18 defined by Section 773.003.

19 SECTION 3. Section 171.061, Health and Safety Code, is
20 amended by amending Subdivisions (2) and (5) and adding
21 Subdivisions (2-a) and (8-a) to read as follows:

22 (2) "Abortion-inducing drug" means a drug, a medicine,
23 or any other substance, including a regimen of two or more drugs,
24 medicines, or substances, prescribed, dispensed, or administered
25 with the intent of terminating a clinically diagnosable pregnancy
26 of a woman and with knowledge that the termination will, with
27 reasonable likelihood, cause the death of the woman's unborn child.

1 The term includes off-label use of drugs, medicines, or other
2 substances known to have abortion-inducing properties that are
3 prescribed, dispensed, or administered with the intent of causing
4 an abortion, including the Mifeprex regimen, misoprostol
5 (Cytotec), and methotrexate. The term does not include a drug,
6 medicine, or other substance that may be known to cause an abortion
7 but is prescribed, dispensed, or administered for other medical
8 reasons.

9 (2-a) "Adverse event" or "abortion complication"
10 means any harmful event or adverse outcome with respect to a patient
11 related to an abortion, including the abortion complications listed
12 in Section 171.006, as added by Chapter 4 (H.B. 13), Acts of the
13 85th Legislature, 1st Called Session, 2017.

14 (5) "Medical abortion" means the administration or use
15 of an abortion-inducing drug to induce an abortion, and may also be
16 referred to as a "medication abortion," a "chemical abortion," a
17 "drug-induced abortion," "RU-486," or the "Mifeprex regimen".

18 (8-a) "Provide" means, as used with regard to
19 abortion-inducing drugs, any act of giving, selling, dispensing,
20 administering, transferring possession, or otherwise providing or
21 prescribing an abortion-inducing drug.

22 SECTION 4. Section 171.063, Health and Safety Code, is
23 amended by amending Subsections (a), (c), and (e) and adding
24 Subsection (b-1) to read as follows:

25 (a) A person may not knowingly [~~give, sell, dispense,~~
26 ~~administer,~~] provide[~~, or prescribe~~] an abortion-inducing drug to a
27 pregnant woman for the purpose of inducing an abortion in the

1 pregnant woman or enabling another person to induce an abortion in
2 the pregnant woman unless:

3 (1) the person who [~~gives, sells, dispenses,~~
4 ~~administers,~~] provides[~~, or prescribes~~] the abortion-inducing drug
5 is a physician; and

6 (2) [~~except as otherwise provided by Subsection (b),~~]
7 the provision[~~, prescription, or administration~~] of the
8 abortion-inducing drug satisfies the protocol [~~tested and~~]
9 authorized by this subchapter [~~the United States Food and Drug~~
10 ~~Administration as outlined in the final printed label of the~~
11 ~~abortion-inducing drug~~].

12 (b-1) A manufacturer, supplier, physician, or any other
13 person may not provide to a patient any abortion-inducing drug by
14 courier, delivery, or mail service.

15 (c) Before the physician [~~gives, sells, dispenses,~~
16 ~~administers,~~] provides[~~, or prescribes~~] an abortion-inducing drug,
17 the physician must:

18 (1) examine the pregnant woman in person;

19 (2) independently verify that a pregnancy exists;

20 (3) [~~and~~] document, in the woman's medical record, the
21 gestational age and intrauterine location of the pregnancy to
22 determine whether an ectopic pregnancy exists;

23 (4) determine the pregnant woman's blood type, and for
24 a woman who is Rh negative, offer to administer Rh immunoglobulin
25 (RhoGAM) at the time the abortion-inducing drug is administered or
26 the abortion is performed or induced to prevent Rh incompatibility,
27 complications, or miscarriage in future pregnancies;

1 (5) document whether the pregnant woman received
2 treatment for Rh negativity, as diagnosed by the most accurate
3 standard of medical care; and

4 (6) ensure the physician does not provide an
5 abortion-inducing drug for a pregnant woman whose pregnancy is more
6 than 49 days of gestational age.

7 (e) A ~~[The]~~ physician who ~~[gives, sells, dispenses,~~
8 ~~administers,]~~ provides~~[, or prescribes]~~ the abortion-inducing
9 drug, or the physician's agent, must schedule a follow-up visit for
10 the woman to occur not later ~~[more]~~ than the 14th day ~~[14 days]~~
11 after the earliest date on which the abortion-inducing drug is
12 administered ~~[administration]~~ or used or the abortion is performed
13 or induced ~~[use of the drug]~~. At the follow-up visit, the physician
14 must:

15 (1) confirm that the woman's pregnancy is completely
16 terminated; and

17 (2) assess any continued blood loss ~~[the degree of~~
18 ~~bleeding]~~.

19 SECTION 5. Subchapter D, Chapter 171, Health and Safety
20 Code, is amended by adding Sections 171.0631, 171.0632, 171.065,
21 and 171.066 to read as follows:

22 Sec. 171.0631. VOLUNTARY AND INFORMED CONSENT REQUIRED. A
23 person may not provide an abortion-inducing drug to a pregnant
24 woman without satisfying the applicable informed consent
25 requirements of Subchapter B.

26 Sec. 171.0632. REPORTING REQUIREMENTS. A physician who
27 provides an abortion-inducing drug must comply with the applicable

1 physician reporting requirements under Section 245.011.

2 Sec. 171.065. CRIMINAL OFFENSE. (a) A person who
3 intentionally, knowingly, or recklessly violates this subchapter
4 commits an offense. An offense under this subsection is a state
5 jail felony.

6 (b) A pregnant woman on whom a drug-induced abortion is
7 attempted, induced, or performed in violation of this subchapter is
8 not criminally liable for the violation.

9 (c) Conduct constituting an offense under this section may
10 also be the basis for an administrative violation under Section
11 171.064.

12 Sec. 171.066. ENFORCEMENT OF SUBCHAPTER. A state executive
13 or administrative official may not decline to enforce this
14 subchapter, or adopt a construction of this subchapter in a way that
15 narrows its applicability, based on the official's own beliefs on
16 the requirements of the state or federal constitution, unless the
17 official is enjoined by a state or federal court from enforcing this
18 subchapter.

19 SECTION 6. The following provisions of the Health and
20 Safety Code are repealed:

- 21 (1) Sections 171.061(3) and (6); and
22 (2) Section 171.063(b).

23 SECTION 7. (a) Nothing in this Act shall be construed as
24 creating or recognizing a right to abortion.

25 (b) It is not the intention of this Act to make lawful an
26 abortion that is otherwise unlawful.

27 (c) Except as specifically provided by Section 6 of this

1 Act, nothing in this Act repeals, replaces, or otherwise
2 invalidates existing Texas laws, regulations, or policies.

3 SECTION 8. Any provision of this Act held to be invalid or
4 unenforceable by its terms or as applied to any person or
5 circumstance shall be construed to give the provision the maximum
6 effect permitted by law, unless such holding is one of utter
7 invalidity or unenforceability, in which event the provision shall
8 be considered severable from the other provisions of this Act and
9 shall not affect the remainder or the application of the provisions
10 to other persons not similarly situated or to other, dissimilar
11 circumstances.

12 SECTION 9. (a) Except as provided by Subsection (b) of this
13 section, the changes in law made by this Act apply only to an
14 abortion performed or induced on or after the effective date of this
15 Act.

16 (b) Section 171.065, Health and Safety Code, as added by
17 this Act, applies only to an abortion performed or induced on or
18 after December 1, 2021.

19 SECTION 10. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect on the 91st day after the last day of
24 the legislative session.