

By: Hughes

S.B. No. 31

A BILL TO BE ENTITLED

AN ACT

relating to exceptions to otherwise prohibited abortions based on a physician's reasonable medical judgment.

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

SECTION 1. This Act may be cited as the Life of the Mother Act.

SECTION 2. Amend Section 74.551, Civil Practice and Remedies Code, to read as follows:

Sec. 74.551. APPLICATION. ~~An action to which Section 74.552 applies is~~ A civil action brought against a physician or health care provider for a violation of a provision of Chapter 170, 170A, or 171, Health and Safety Code, or Chapter 6-1/2, Title 71, Vernon's Texas Civil Statutes, subject to an exception provided by the chapter alleged to have been violated or other law, is a health care liability claim ~~for purposes of this chapter~~ and is subject to the same requirements as any other health care liability claim. This section does not affect a health care liability claim based on any other ground than a violation of Chapters 170, 170A, or 171, Health and Safety Code, or Chapter 6-1/2, Title 71, Vernon's Texas Civil Statutes.

SECTION 3. Section 170A.002(b), Health and Safety Code, is amended to read as follows:

(b) ~~The prohibition under~~ It is an exception to the application of Subsection (a) that ~~does not apply if:~~

1 (1) the person performing, inducing, or attempting the
2 abortion is a licensed physician+ ; and

3 (2) in the exercise of reasonable medical judgment,
4 the pregnant female on whom the abortion is performed, induced, or
5 attempted has a ~~life-threatening~~ physical condition aggravated by,
6 caused by, or arising from a pregnancy that places the female at
7 risk of death or poses a serious risk of substantial impairment of a
8 major bodily function unless the abortion is performed or induced+
9 ~~and~~

10 ~~(3) the person performs, induces, or attempts the abortion~~
11 ~~in a manner that, in the exercise of reasonable medical judgment,~~
12 ~~provides the best opportunity for the unborn child to survive~~
13 ~~unless, in the reasonable medical judgment, that manner would~~
14 ~~create.~~

15 ~~(A) a greater risk of the pregnant female's death; or~~

16 ~~(B) a serious risk of substantial impairment of a major~~
17 ~~bodily function of the pregnant female.~~

18 SECTION 4. Chapter 170A, Health and Safety Code, is amended
19 by adding new Sections 170A.0021, 170A.0022, and 170A.0023 to read
20 as follows:

21 Sec. 170A.0021. TREATMENT AFFECTING UNBORN CHILD;
22 EXCEPTION. (a) Notwithstanding any other law, a physician who
23 treats a condition described by Subsection 170A.002(b)(2) shall do
24 so in a manner that, in the exercise of reasonable medical judgment,
25 provides the best opportunity for survival of an unborn child.

26 (b) It is an exception to the application of Subsection (a)
27 that, in a physician's reasonable medical judgment, the manner of

1 treatment required by that subsection would create a greater risk
2 of:

3 (1) the pregnant female's death; or

4 (2) substantial impairment of a major bodily function of the
5 pregnant female.

6 (c) This chapter does not require a physician to delay,
7 alter or withhold medical treatment provided to a pregnant female
8 if doing so would create a greater risk of:

9 (1) the pregnant female's death; or

10 (2) substantial impairment of a major bodily function of the
11 pregnant female.

12 (d) Nothing in Subsection (c) authorizes the performance of
13 an abortion that is prohibited by law.

14 Sec. 170A.0022. REASONABLE MEDICAL JUDGMENT. Reasonable
15 medical judgment in providing medical treatment to a pregnant
16 female includes removing:

17 (1) an ectopic pregnancy as defined by Section
18 245.002(4-a); and

19 (2) a dead, unborn child whose death was caused by
20 spontaneous abortion.

21 Sec. 170A.0023. ACCIDENTAL OR UNINTENTIONAL DEATH. (a)
22 This section applies to any law that provides an exception to an
23 otherwise prohibited abortion based on a condition described by
24 Section 170A.002(b)(2).

25 (b) It is an exception to the application of each law
26 described by Subsection (a) that the death or injury of an unborn
27 child resulted from treatment provided to a pregnant female based

1 on a physician's reasonable medical judgment if the death of or
2 injury to the unborn child was accidental or unintentional.

3 SECTION 5. Section 171.002(3), Health and Safety Code, is
4 amended to read as follows:

5 (3) "Medical emergency" means a condition described by
6 Section 170A.002(b)(2) means a life threatening physical condition
7 ~~aggravated by, caused by, or arising from a pregnancy that, as~~
8 ~~certified by a physician, places the woman in danger of death or a~~
9 ~~serious risk of substantial impairment of a major bodily function~~
10 ~~unless an abortion is performed.~~

11 SECTION 6. Section 171.046(a) and (b), Health and Safety
12 Code, are amended to read as follows:

13 (a) The prohibitions and requirements under Sections
14 171.043, 171.044, and 171.045(b) do not apply to an abortion
15 performed if ~~there exists a condition that,~~ in the physician's
16 reasonable medical judgment, the abortion is necessary due to a
17 medical emergency and ~~so complicates the medical condition of the~~
18 ~~woman that, to avert the woman's death or a serious risk of~~
19 ~~substantial and irreversible physical impairment of a major bodily~~
20 ~~function, other than a psychological condition, it necessitates, as~~
21 applicable:

22 (1) the immediate abortion of her pregnancy without the
23 delay necessary to determine the probable post-fertilization age of
24 the unborn child;

25 (2) the abortion of her pregnancy even though the
26 post-fertilization age of the unborn child is 20 or more weeks; or

27 (3) the use of a method of abortion other than a method

1 described by Section [171.045\(b\)](#)

2 (b) A physician may not take an action authorized under
3 Subsection (a) if the medical emergency ~~risk of death or a~~
4 ~~substantial and irreversible physical impairment of a major bodily~~
5 ~~function~~ arises from a claim or diagnosis that the woman will engage
6 in conduct that may result in her death or in substantial and
7 irreversible physical impairment of a major bodily function.

8 SECTION 7. Section [171.063\(c\)](#), Health and Safety Code, is
9 amended to read as follows:

10 (c) Before the physician provides an abortion-inducing
11 drug, the physician must:

12 (1) examine the pregnant woman in person;

13 (2) independently verify that a pregnancy exists;

14 (3) document, in the woman's medical record, the
15 gestational age and ~~intrauterine~~ location of the pregnancy to
16 determine whether an ectopic pregnancy exists as defined by Section
17 [245.002\(4-a\)](#);

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

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

27 (6) ensure the physician does not provide an

1 abortion-inducing drug for a pregnant woman whose pregnancy is more
2 than 49 days of gestational age.

3 SECTION 8. Subchapter H, Chapter 171, Health and Safety
4 Code, is amended by adding a new Section 171.2011 to read as
5 follows:

6 Sec.171.2011. APPLICABILITY. (a) This subchapter applies
7 only to an abortion that is otherwise prohibited by law and that is
8 not subject to an exception provided by law.

9 (b) The following activities do not constitute aiding or
10 abetting under this subchapter:

11 (1) providing services by a physician or health care
12 provider to a treating physician, or communication between a
13 physician or health care provider and a treating physician, for the
14 purposes of arriving at a reasonable medical judgment as required
15 by an exception to an otherwise prohibited abortion;

16 (2) communicating between a physician or health care
17 provider and a patient, or providing services by a physician or
18 health care provider to a patient, for the purpose of arriving at
19 reasonable medical judgment as required by an exception to an
20 otherwise prohibited abortion;

21 (3) communicating between an attorney and a physician or
22 health care provider related to an exception to an otherwise
23 prohibited abortion;

24 (4) communicating between a treating physician and any
25 other person or providing services to a treating physician or
26 patient relating to performing, inducing or attempting an abortion
27 for which the treating physician has determined that, in reasonable

1 medical judgment, an exception to an otherwise prohibited abortion
2 is applicable;

3 (5) providing products to a patient or treating physician
4 relating to performing, inducing or attempting an abortion for
5 which the treating physician has determined that, in reasonable
6 medical judgment, an exception to an otherwise prohibited abortion
7 is applicable.

8 SECTION 9. Amend Section 245.002(4-a), Health and Safety
9 Code, to read as follows:

10 (4-a) "Ectopic pregnancy" means the implantation of a
11 fertilized egg or embryo:

12 (A) outside of the uterus;

13 (B) in an abnormal location in the uterus causing the
14 fertilized egg or embryo to be non-viable; or

15 (C) in a scarred portion of the uterus.

16 SECTION 10. Amend Section 245.016, Health and Safety Code,
17 to read as follows:

18 Sec. 245.016. ABORTION IN UNLICENSED ABORTION FACILITY TO
19 PREVENT DEATH OR SERIOUS IMPAIRMENT. It is an exception to the
20 application of Section 245.014 that the abortion was performed in
21 an unlicensed abortion facility due to a medical emergency
22 described by Section 170A.002(b)(2) ~~This chapter does not remove~~
23 ~~the responsibility or limit the ability of a physician to perform an~~
24 ~~abortion in an unlicensed abortion facility if, at the commencement~~
25 ~~of the abortion, the physician reasonably believes that the~~
26 ~~abortion is necessary to prevent the death of the patient or to~~
27 ~~prevent serious impairment of the patient's physical health. In~~

1 this section, the term "unlicensed abortion facility" does not
2 include an individual or entity to which funds appropriated by the
3 legislature in the general appropriations act are prohibited from
4 being distributed.

5 SECTION 11. Amend Section 164.052, Occupations Code, by
6 adding a new Subsection (d) to read as follows:

7 (d) This section may not be construed to prohibit, and the
8 board may not take action against a physician regarding, the
9 performance of an abortion in response to a medical emergency
10 described by Section 170A.002 (b) (2), Health and Safety Code.

11 SECTION 12. Amend Section 164.055, Occupations Code, by
12 adding by amending Subsection (c) to read as follows:

13 (c) Notwithstanding Subsection (a), the board may not take
14 disciplinary action against a physician who exercised reasonable
15 medical judgment in providing medical treatment to a pregnant woman
16 as described by Section ~~74.552, Civil Practice and Remedies Code~~
17 170A.002, Health and Safety Code.

18 SECTION 13. Amend Section 165.152, Occupations Code, by
19 adding a new Subsection (e) to read as follows:

20 (e) It is an exception to the application of Subsection (a)
21 if the person is a physician who performs, induces, or attempts an
22 abortion due to a medical emergency described by Section
23 170A.002(b)(2), Health and Safety Code.

24 SECTION 14. Article 4512.6, Chapter 6-1/2, Title 71,
25 Vernon's Civil Statutes, is amended to read as follows:

26 Art. 4512.6. ~~BY EXCEPTION FOR MEDICAL EMERGENCY ADVICE.~~

27 ~~Nothing in this chapter applies to~~ (a) It is an exception to the

1 application of this chapter that an abortion is procured, performed
2 or attempted due to a medical emergency ~~by medical advice for the~~
3 ~~purpose of saving the life of the mother.~~

4 (b) In this article, "medical emergency" means a condition
5 described by Section 170A.002(b) (2), Health and Safety Code.

6 SECTION 15. The exceptions to otherwise prohibited
7 abortions described by this Act:

8 (1) shall be construed as consistent with the opinion of the
9 Texas Supreme Court in *In re State*, 682 S.W.3d 890 (Tex. 2023),
10 including with respect to providing that any threat posed by a
11 female's pregnancy to her life or major bodily functions need not be
12 imminent or irreversible; and

13 (2) except as provided by the change in law made by this Act
14 to Section 170A.002(b) (2), Health and Safety Code, shall be
15 construed as consistent with the opinion of the Texas Supreme Court
16 in *State v. Zurawski*, 690 S.W.3d 644 (Tex. 2024), including with
17 respect to the state's burden of proof in any enforcement action.

18 SECTION 16. The following statutes are repealed:

- 19 (1) Section 74.552, Civil Practice and Remedies Code;
20 (2) Section 170A.002(d), Health and Safety Code;
21 (3) Section 9.35, Penal Code.

22 SECTION 17. (a) To increase the understanding of the legal
23 profession regarding the laws regulating abortion following the
24 changes in law made by this Act, the State Bar of Texas shall
25 develop, or solicit the development of, and offer to attorneys
26 licensed in this state a comprehensive program of continuing legal
27 education regarding the regulation of abortion in this state, with

1 a focus on the exceptions to otherwise prohibited abortions. The
2 program shall include legal education regarding:

3 (1) statutory terminology applicable to the definition and
4 regulation of abortion;

5 (2) prohibited abortions and prohibited medical techniques
6 related to the performance of abortions;

7 (3) state law establishing statutory exceptions to
8 otherwise prohibited abortions;

9 (4) the civil and criminal implications of abortion
10 regulation in this state and the implications of statutory
11 exceptions to otherwise prohibited abortions;

12 (5) the definition of "medical emergency" as defined by
13 Section 170A.002 (b) (2), Health and Safety Code;

14 (6) the responsibility of a physician to exercise
15 reasonable medical judgment in determining whether a condition or
16 conditions exist allowing the performance of an abortion during a
17 medical emergency; and

18 (7) the circumstances under which a physician is required
19 under Section 170A.0021, Health and Safety Code, to treat a
20 pregnant female who experiences such conditions in a manner that
21 maximizes an unborn child's opportunity to survive if doing so does
22 not increase the threat to the mother presented by those
23 conditions.

24 (b) The program required by Subsection (a) shall be:

25 (1) developed in cooperation with the Health Law Section of
26 the State Bar of Texas, physician and health care provider
27 organizations, and other non-State Bar of Texas stakeholders with a

1 demonstrated interest and expertise in the required subject matter;
2 and

3 (2) be promoted by communications made by the State Bar to
4 all attorneys in this state, organizations representing physicians
5 and health care providers whose members treat pregnant women, and
6 health care institutions as defined by Section 74.001, Civil
7 Practice and Remedies Codes.

8 (c) The course of instruction required by Subsection (a)
9 must be offered at no cost to attorneys licensed in this state and
10 shall be offered on the Internet provided through the state bar in
11 addition to any other method approved by the state bar.

12 (d) The program required by Subsection (a) shall be offered
13 no later than January 1, 2026.

14 SECTION 18. (a) (1) No later than January 1, 2026, the Texas
15 Medical Board shall make available one or more approved courses
16 regarding the laws relating to pregnancy-related medical
17 emergencies as the term "medical emergency" is used in Title 2,
18 Subtitle H, Health and Safety Code.

19 (2) The board may solicit the development of a course
20 required by Subsection (1) by organizations representing
21 physicians, institutions of higher education with medical schools,
22 or other providers of continuing education to physicians acceptable
23 to the board.

24 (3) After approval of a continuing education course
25 required by this subsection, the board shall inform all licensed
26 physicians in this state of the availability of the course and
27 request organizations representing physicians in general and

1 physicians who practice in specialties that treat pregnant women to
2 make the availability of the course known to their members.

3 (b) Completion of a course described by Subsection (a) shall
4 be credited to the requirements for continuing medical education
5 enforced by the Texas Medical Board.

6 (c) A course approved under Subsection (a) shall address:

7 (1) what does and does not constitute an abortion, including
8 exclusions from that term for ectopic pregnancy and spontaneous
9 abortion;

10 (2) the laws prohibiting abortion and any procedures
11 prohibited by law for performing an abortion;

12 (3) the statutory exceptions to laws prohibiting abortion
13 with an emphasis on exceptions based on a medical emergency as the
14 term "medical emergency" is used in Title 2, Subtitle H, Health and
15 Safety Code; and

16 (4) the laws regarding reasonable medical judgment as used
17 in connection with the medical emergency exceptions to laws
18 prohibiting abortions.

19 (d) Continuing medical education described in whole or in
20 part by Subsection (c) does not constitute aiding or abetting as
21 those terms are used in Subchapter H, Chapter 171, Health and Safety
22 Code.

23 (e)(1) A physician licensed to practice medicine under
24 Subtitle B, Title 3, Occupations Code, who provides obstetric care
25 shall complete no later than June 1, 2027, a course described by
26 Subsection (a) that equals at least one hour of continuing medical
27 education. This is a one-time requirement.

1 (2) The license of a physician described by Subsection (1)
2 shall not be renewed if the physician has not complied with that
3 subsection.

4 (3) The Texas Medical Board shall adopt rules to implement
5 this subsection.

6 (f) The board shall make available at least one course
7 required by this section at no cost to physicians licensed in this
8 state and include on its internet website a list of courses of
9 continuing medical education approved under Subsection (a).

10 (g) Nothing in Subsections (a) through (f):

11 (1) creates a cause of action or a standard of care,
12 obligation or duty that provides the basis for a cause of action; or

13 (2) affects a health care liability claim, as defined by
14 Section 74.001(13), Civil Practice and Remedies Code, based on any
15 ground other than a violation of Chapters 170, 170A, or 171, Health
16 and Safety Code, or Chapter 6-1/2, Title 71, Vernon's Texas Civil
17 Statutes.

18 SECTION 19. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2025.