

By: Patrick

S.B. No. 97

A BILL TO BE ENTITLED

AN ACT

relating to distributing or prescribing abortion-inducing drugs;  
providing penalties.

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

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

SUBCHAPTER C. ABORTION-INDUCING DRUGS

Sec. 171.051. DEFINITIONS. In this subchapter:

(1) "Abortion" means the act of using, administering,  
prescribing, or otherwise providing an instrument, a drug, a  
medicine, or any other substance, device, or means with the intent  
to terminate a clinically diagnosable pregnancy of a woman and with  
knowledge that the termination by those means will, with reasonable  
likelihood, cause the death of the woman's unborn child. An act is  
not an abortion if the act is done with the intent to:

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

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

(C) remove an ectopic pregnancy; or

(D) treat a maternal disease or illness for which  
a prescribed drug, medicine, or other substance is indicated.

(2) "Abortion-inducing drug" means a drug, a medicine,  
or any other substance prescribed, dispensed, or administered with

1 the intent of terminating a clinically diagnosable pregnancy of a  
2 woman and with knowledge that the termination will, with reasonable  
3 likelihood, cause the death of the woman's unborn child. The term  
4 includes off-label use of drugs, medicines, or other substances  
5 known to have abortion-inducing properties that are prescribed,  
6 dispensed, or administered with the intent of causing an abortion,  
7 including misoprostol and methotrexate. The term does not include  
8 a drug, medicine, or other substance that may be known to cause an  
9 abortion but is prescribed, dispensed, or administered for other  
10 medical reasons.

11 (3) "Drug label" means a pamphlet accompanying an  
12 abortion-inducing drug that:

13 (A) outlines the protocol tested and authorized  
14 by the United States Food and Drug Administration and agreed to by  
15 the drug company applying for authorization of the drug by that  
16 agency; and

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

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

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

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

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

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

3           Sec. 171.052. ENFORCEMENT BY TEXAS MEDICAL BOARD.  
4 Notwithstanding Section 171.005, the Texas Medical Board shall  
5 enforce this subchapter.

6           Sec. 171.053. DISTRIBUTION OF ABORTION-INDUCING DRUG. (a)  
7 A person may not knowingly give, sell, dispense, administer,  
8 provide, or prescribe an abortion-inducing drug to a pregnant woman  
9 for the purpose of inducing an abortion in the pregnant woman or  
10 enabling another person to induce an abortion in the pregnant woman  
11 unless:

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

15           (2) the provision, prescription, or administration of  
16 the abortion-inducing drug satisfies the protocol tested and  
17 authorized by the United States Food and Drug Administration as  
18 outlined in the drug label of the abortion-inducing drug.

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

24           (c) The physician who gives, sells, dispenses, administers,  
25 provides, or prescribes an abortion-inducing drug shall provide the  
26 pregnant woman with a copy of the drug label of that  
27 abortion-inducing drug.

1       (d) The physician who gives, sells, dispenses, administers,  
2 provides, or prescribes an abortion-inducing drug must:

3           (1) execute a contract signed by the physician and by  
4 another physician who, by the terms of the contract, agrees to treat  
5 emergencies arising from the administration or use of the drug; and

6           (2) produce the signed contract described by  
7 Subdivision (1) on demand by the pregnant woman or the Texas Medical  
8 Board.

9       (e) The physician who gives, sells, dispenses, administers,  
10 provides, or prescribes the abortion-inducing drug shall provide  
11 the pregnant woman with the name and phone number of:

12           (1) the physician who has signed a contract under  
13 Subsection (d)(1) to treat an emergency arising from the  
14 administration or use of the drug; and

15           (2) the hospital at which an emergency arising from  
16 the administration or use of the drug would be treated.

17       (f) A physician who contracts to treat an emergency arising  
18 from the administration or use of an abortion-inducing drug under  
19 Subsection (d)(1) must have active admitting, gynecological, and  
20 surgical privileges at the hospital designated to treat the  
21 emergency.

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

27           (1) confirm that the pregnancy is completely

1 terminated; and

2 (2) assess the degree of bleeding.

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

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

21 Sec. 171.054. ADMINISTRATIVE PENALTY. (a) The Texas  
22 Medical Board may take disciplinary action under Chapter 164,  
23 Occupations Code, or assess an administrative penalty under  
24 Subchapter A, Chapter 165, Occupations Code, against a person who  
25 violates Section 171.053.

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

1           SECTION 2. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2013.